

MOOSE CREEK NAVIGABILITY DETERMINATIONS

Name	Author	Year	Navigability Determination
Moose Creek	BLM	March 28, 1980	Navigable and Nonnavigable Waters in the Northway Area, Eastern Alaska
	ANCAB	August 5, 1981	Appeal from the Decision of the Alaska State Director, BLM F-14912-A and F-14912-B
	ANCAB	October 30, 1981	Appeal from the Decision of the Alaska State Director, BLM F-19155-20
	BLM	May 24, 1994	Interviews on Water Bodies on Lands in Window 1212 (Group Surveys 117 and 242)
	BLM	June 24, 1994	Navigable waters on Lands Selected under ANCSA, The Statehood, or the Native Allotment, mentioned Mark Creek is Navigable
	BLM	August 25, 1994	Additional Navigable Waters to the Navigable Determination dated June 24, 1994
	BLM	September 22, 1994	Additional Navigable Waters to the Navigable Determination dated June 24, 1994



United States Department of the Interior

IN REPLY REFER TO

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

2620 (932)
F-14912-A
F-19155-20

Memorandum

To: State Director, Alaska

From: Chief, Division of Resources

Subject: Navigable and Nonnavigable Waters in the Northway Area,
Eastern Alaska

Attached is a staff analysis of navigable and nonnavigable waters on lands selected by Northway Natives, Inc. and Doyon, Ltd. in the Northway area, Eastern Alaska. On the basis of this report, we recommend that, within the area selected by the corporations, Nabesna River, Mark Creek, Fish Lake, the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M., and the unnamed lake in Sections 14-15, 22-26, T. 14 N., R. 19 E., C.R.M., be determined navigable. We also recommend that Moose Creek to the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M., be determined navigable. The Chisana River was determined navigable on March 22, 1979.

No other water bodies in the area selected by the corporations appear to meet the standards of navigability as set forth in Departmental guidelines and the Alaska Native Claims Appeal Board's decision of December 14, 1979, on the navigability of the Nation and Kandik Rivers.

Your concurrence with these recommendations is respectfully requested.

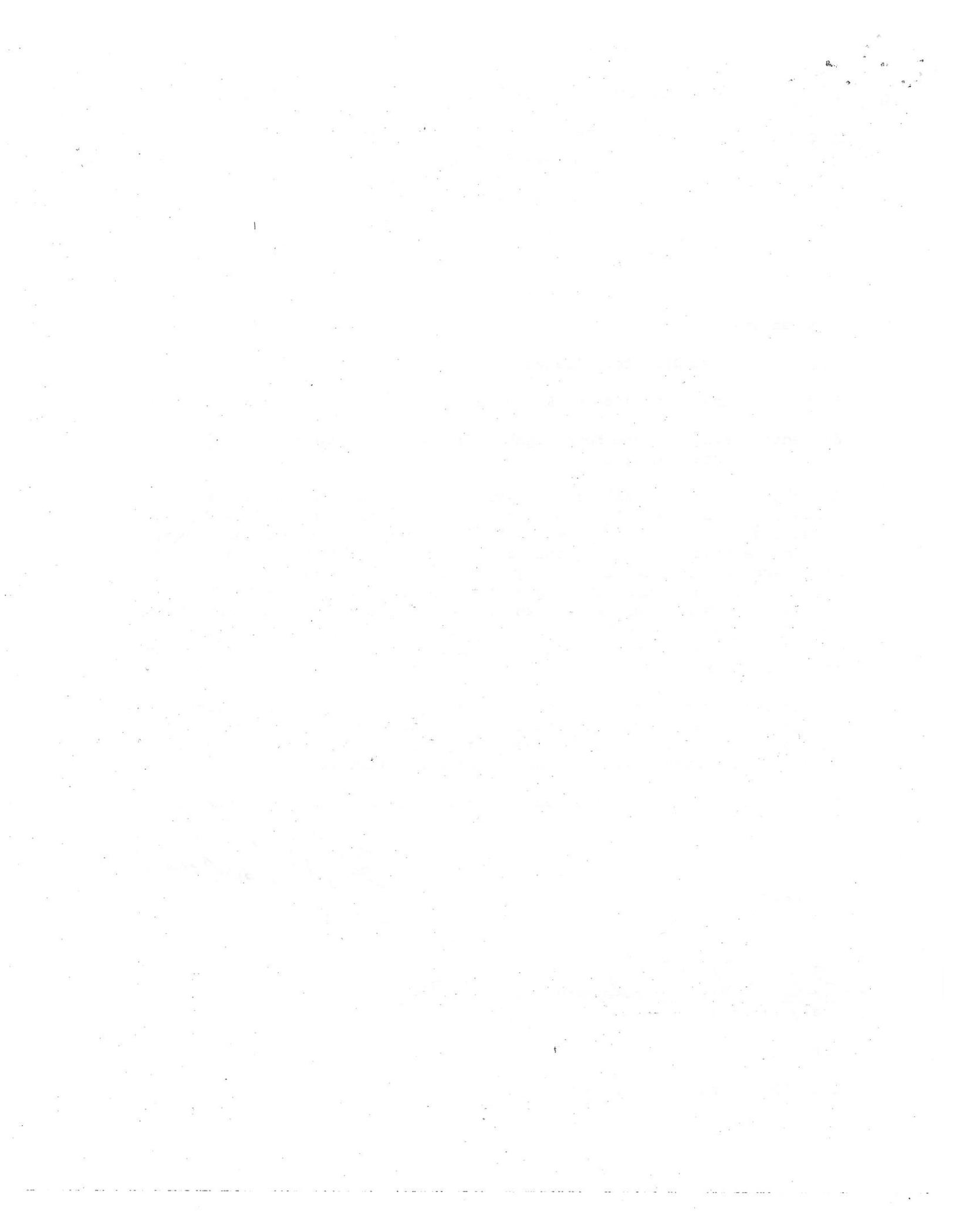
I Concur,

ACTING

State Director 3-28-80

Enclosure

cc: DM-F with enclosure except maps





United States Department of the interior

IN REPLY REFER TO

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

2620 (NAV)(932)
F-14912-A
F-19155-20

Memorandum

To: Chief, Division of Resources (930)

From: Historian

Subject: Navigable and Nonnavigable Waters in the Northway Area,
Eastern Alaska

On March 22, 1979, the State Director, U.S. Bureau of Land Management, determined the upper Tanana River, the Nabesna River to Northway, and the Chisana River to Scottie Creek, to be navigable waterways. Based upon a factual report on the Nabesna and Chisana River basins which was prepared by this office, the State Director's determinations reaffirmed all but one determination made earlier in connection with land conveyances to Northway Natives, Inc. and Doyon, Ltd. Previously, it was determined that the Nabesna River was navigable to Nabesna Village.

Hitherto the State Director's determinations of navigability and nonnavigability were based solely on Departmental guidelines, notably the so-called "Garner Memorandum" of March 16, 1976. The Alaska Native Claims Appeal Board has, however, recently clarified several principles set forth in the "Garner Memorandum" in its decision of December 14, 1979, on the navigability of the Nation and Kandik Rivers.

In accordance with your request to review previous determinations of navigability in the Northway area in light of the Board's decision, we have again analyzed the physical character and historic uses of waterways in the Northway area, specifically those water bodies located in the area selected by Northway Natives, Inc. and Doyon, Ltd. which are the subject of an appeal now before the Board. The result of the analysis leads us to recommend that, within the area of selection, Nabesna River, Moose Creek, Mark Creek, Fish Lake, the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M., and the unnamed lake in Sections 14-15, 22-26, T. 14 N., R. 19 E., C.R.M., be determined navigable. We have considered all other water bodies in the area of selection, particularly those illustrated on the State of Alaska's Water Delineation Map as navigable waterways, and found that none meet the criteria of navigability.

For your review we have summarized the pertinent facts relating to our recommendations. Our source of information is the factual report,

dated March 16, 1979, on the area which was used in preparing earlier recommendations. A copy of the report is attached to this memorandum for your perusal in determining whether the current recommendations and supporting rationales are warranted. We have moreover attached U.S. Geological Survey maps which illustrate the area selected by the corporations. Water bodies colored dark blue are those recommended by this office to be determined navigable. Water bodies outlined in red are those considered by the State of Alaska to be navigable.

Economic Conditions

Historically, two spheres of economic activity have developed in the upper Tanana River basin. In the headwaters of the Nabesna and Chisana Rivers, hard-rock and placer mining was the dominant economic activity from the late 1890's to the late 1940's when the Nabesna Mine ceased operations. Small-scale placer mining operations continue at Chisana and vicinity to the present day, and recent discoveries of minerals along the Nabesna River may again lead to a revival of hard-rock mining. Big-game hunting and trapping also occur in the area, and is an important source of income to residents along the Nabesna Road.

In the Northway area, where hundreds of small lakes abound, the dominant economic activity for much of the present century was the fur trade. Until the 1940's, local residents derived much of their income by trapping small fur-bearing animals. The fur trade, principally in muskrat and beaver pelts, continues to flourish in the area, but not to the degree as in former days. Local residents are occasionally employed by nearby government offices and mercantile businesses, and some travel to distant towns and cities for summer employment.

Transportation Systems

The development of different resources in the Nabesna and Chisana River basins required different transportation systems. Mining operations in the first stage of development were adequately served by trails extending to Gulkana on the Richardson Highway and McCarthy on the Copper River & Northwestern Railway. Successful mining operations, particularly hard-rock mining, required a large work force, heavy machinery, and most important, year-round access to the ice-free ports of Cordova and Valdez; hence the construction of a truck road from the Richardson Highway to the Nabesna Mine in 1929-33. In addition, airfields were constructed in 1929 at Nabesna and Chisana for the transport of men and light freight by airplane to the mines.

In contrast, the fur trade in the Northway area was based upon a system of water transportation. Fur traders relied upon small steamboats and large wooden riverboats to transport supplies from Fairbanks to trading posts near Nabesna Village and on the Chisana River. With the construction of the Alaska Highway and Northway airfield in the early 1940's, local communities became dependent upon trucks and airplanes for the delivery of all commodities. And the fur traders began to use airplanes to travel to the small villages.

Today, much of the water-based travel in the Northway area is done in light boats and canoes in connection with subsistence activities. In the past, however, miners and fur traders used the waterways as routes of travel in much heavier boats. Steamboats, barges, launches, riverboats, and pole boats were the customary modes of travel, trade, and commerce on the Tanana River, and nearly all of these crafts were operated with varying degrees of success on the Nabesna and Chisana Rivers. Since World War II, however, most travel on the principal waterways has been conducted in aluminum riverboats, light canoes, and to a lesser extent, rubber rafts. Light canoes and boats are used on the creeks and lakes, principally those adjacent to the Chisana River and the Alaska Highway, in order to obtain small fur-bearing animals.

Nabesna River

Next to the Tanana and Chisana Rivers, the Nabesna River has been and is the most important route of summer travel in the area. The absence of summer trails or roads along the river above Northway indicates significantly the degree to which the lower and middle reaches of the river is relied upon for travel. The historic record reveals that in 1905 and again in 1913 miners ascended the Nabesna River in small steamboats, and failed on both occasions to reach the upper reaches of the river in the steamboats. One party succeeded in ascending the Nabesna River some 25 to 35 miles before grounding the boat. In the summer of 1913, some prospectors in the Chisana gold rush ascended the river in poling boats. Despite great difficulties, one party managed to reach Camp Creek with a poling boat.

In more recent times, local residents frequently ascend the river in light motor-powered boats in connection with subsistence activities. The limit of their travel appears to be the Black Hills, or beyond the area selected by the corporations. In addition, an increasing number of recreation float trips are taking place on the river. People have floated down the river from Nabesna to Northway in canoes, rafts, and kayaks.

In view of the historical evidence, it is clear that Nabesna River as far as the Black Hills affords a route of water travel. If there had been a need, small boats like those customarily used on the Tanana River for commercial purposes, could have been successfully operated on the middle and lower stretches of the Nabesna River by experienced navigators and under the right set of river conditions. If the record fails to reveal few instances of commercial boat traffic on the upper river, it is because this stretch of the river was not a suitable route of travel. Hence the rapid extension of the land transportation system in the Copper River region to the upper Nabesna River. The Nabesna Road more than adequately met the needs of miners, hunters, and trappers on the upper Nabesna River.

Moose Creek and Unnamed Lake System

Together, Moose Creek and the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M., afford another route of water travel. For many years, local residents maintained a spring fish camp on the banks of the unnamed lake and Fish Lake, and used the former lake and Moose Creek as an alternative route of travel to the navigable Chisana River, especially in the years prior to the construction of the Alaska Highway. The route may also have been used by Indians on Chisana River to return to the camps for the fall fishing season. In 1929, it was reported that local fur traders traveled to the spring camps in the area by motorboat. It is entirely possible that the traders used the creek and lake to reach the camps on Fish Lake and the unnamed lake. There is certainly nothing in the physical character of the creek and the lake to prevent navigation. The creek ranges in width from 50 to 75 feet, and has a water depth of two to three feet in low water stages, and four to five feet in high water stages. In the lake, the water is generally one to three feet deep, although there is a channel with three to five feet deep. Clearly, the creek and lake afford a potential highway of commerce.

Beyond Section 21, T. 14 N., R. 19 E., C.R.M., Moose Creek is very narrow and shallow. The creek swings to the south near Northway, and heads in Chindaglekne Creek in the marshlands just north of the Black Hills. Motorboats may be used on the creek a short distance above Section 21 only in high water stages. Canoes may be used on the creek at any time of the open season. Given the fact that the creek is paralleled by the Northway Junction Road to Northway, it is clear that Moose Creek is not a potential highway of commerce. It is highly unlikely that canoe traffic or even motorboat traffic on the creek would ever have satisfied the economic needs of Northway, one of the largest communities in the upper Tanana River area.

In the case of the unnamed lake in Sections 16, 17, 20, and 21, T. 14 N., R. 19 E., C.R.M., which is drained by Moose Creek, we have found no evidence of boat traffic on the lake, and lack detailed information about its physical character. Given our knowledge of other lakes of comparable size in the area, we may safely conclude that the lake has the capacity to float large river boats. Local residents doubtless hunt and fish on the lake in small canoes. Otherwise there is no reason to use the lake as a route of travel. The Master Title Plats do not illustrate any Native allotments on the lake. In view of the small size of the lake, the propinquity of the Northway Junction Road and settlements, the limited resources about and in the lake, and other factors, the lake is clearly not susceptible to navigation.

Fish Lake

One of the largest lakes in the Northway area, Fish Lake is separated from the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M., by a narrow, low strip of land. Here is located Kathakne Village, where local Indians traditionally gathered in the summer to

catch fish migrating to and from Fish Lake, Moose Creek, and Chisana River. The lake does not form part of known water transportation system; but given the existence of a summer village on its north bank, people could use the lake in boats for commercial purposes.

Historically, people travel about the lake in small, light boats in the course of duck hunting, fishing, and simply for recreation. The lake is shallow in places, but generally has a water depth of three to five feet --- sufficient to carry a wooden riverboat or pole boat. There are no known obstructions to navigation in the lake. While the lake is generally surrounded by marshland, there are firm banks, especially in Sections 32 and 34, upon which homes may be built. Small stands of commercial-size timber are located near the lake. We lack historic evidence of commercial traffic on the lake; but it is clear that commercial boat traffic could develop on the lake if the need arose. Local residents could use large riverboats to transport firewood for sale, or to haul groceries from the Northway Junction Road to the fish camp.

Mark Creek

From a liberal point of view, Mark Creek could be considered an interconnected slough of Chisana River. The creek heads in Chisana River in Section 31, T. 14 N., R. 20 E., C.R.M., and flows in a single, wide channel through a marshy and lake-dotted country to empty into the Chisana River in its rivermile 5. According to local residents, they have traveled on the creek in light boats for the purpose of hunting and trapping. Like other creeks of comparable width and length in the area, the creek has sufficient depth to accommodate large riverboats. Accessible by the Chisana River, the creek is considered to be an alternative route of water travel, and thus a potential highway of commerce.

The closed slough in Section 31, T. 14 N., R. 20 E., C.R.M., does not meet the criteria of navigability. The slough is accessible by boat via Mark Creek and Chisana River: Small boats may be taken up and down the slough; otherwise there is no place to go.

Unnamed Lake and Channel System

In the same vein, the large unnamed lake in Sections 14-15, 22-26, T. 14 N., R. 19 E., C.R.M., might also be considered an interconnected slough of Chisana River and Mark Creek. The U.S. Geological Survey map (Nabesna D-2), based upon aerial photographs taken in 1952 and 1954 and published in 1955, shows the lake to be connected to Mark Creek by a channel and lake system in Sections 23-25. The Master Title Plats indicate, however, that the channel and lake system ends in the NW 1/4 of Section 25. We have no reason to believe that the channel was not interconnected in 1959.

The lake shores support timber, and thus are probably firm. The lake empties into Chisana River through two wide, deep channels in Section

15. According to one report, local residents use the lake, known to them as "Sucker Lake," for muskrat hunting and for fishing. A Native allotment is located on the lake shore in Section 15, adjacent to Mark Creek. Accessible by water from the Chisana River, the lake is considered to be an alternative route of water travel from Chisana River to Mark Creek in existence in 1959. Local resources are sufficient to warrant the location of a seasonal camp on the lake. The lake and interconnecting channels were, therefore, potential highways of commerce in 1959.

The dead-end sloughs in Sections 23 and 26, and in Sections 24 and 25, are not considered to be navigable waterways. The sloughs are doubtless shallow and narrow. Even were it possible for someone to ascend the sloughs in a riverboat, there would be no place for them to go, as the sloughs terminate in an extensive area of marshland and swamp. Seasonal camps are not likely to have been located on the sloughs; and the limited resources near the sloughs do not warrant speculations that camps will ever be established on the sloughs.

Other Water Bodies

While recognizing that each lake in the Northway area is a unique water body, we must recognize too that the word unique is a relative term, subject to varying interpretations, and that to identify the uniqueness of each and every lake, numbering in the hundreds, requires a level of effort well beyond present needs. Therefore, in order to identify those lakes which may be potential highways of commerce, we propose simply to describe, first, the general characteristics which are common to all of the lakes; second, to classify the lakes in terms of shoreline and surrounding terrain conditions, proximity to communities and routes of travel, and historic uses; and finally, to summarize the rationales behind the recommendations for determinations of navigability and nonnavigability for each category of lakes.

Lakes in the Northway area have much in common. First, all lakes were in their natural and ordinary condition on the date of Statehood. We have found no evidence, direct or indirect, of improvements to navigation. Second, all lakes in the area are very small, by most standards. Only a few are more than two miles in length. The vast majority are less than one mile in length and width. Third, the majority of the lakes are landlocked. Even those that have outlets, are for all practical purposes landlocked, the creeks being very narrow and shallow. Fourth, many if not most of the lakes have sufficient depth to float a large wooden riverboat such as those customarily used on the lower Chisana and Nabesna Rivers and on the Tanana River. Fifth, all of the lakes are accessible with varying degrees of difficulty. All may be reached in the winter by snowmachine and dogsled, or on foot. In fact, most overland travel in this area is done in the winter. In the summer, overland access to the lakes ranges from difficult to extremely difficult --- depending upon the location of the lake in question and the mode of travel. It

is to be noted, however, that many of the lakes are of sufficient size to accomodate landings by airplanes equipped with pontoons. Finally, many if not most of the lakes have been used by local residents in canoes for the purpose of hunting waterfowl or muskrats, or for fishing.

In this connection, it is important to remember that the canoe has been the most effective mode of travel in the development of local resources in or near the lakes. Local residents have traditionally hunted muskrats on the lakes in the spring, when the ice has receded from the shoreline, permitting the use of light canoes along the edges of the lake. Canoes are almost always used in hunting muskrat as well as waterfowl on the lakes. Originally covered with birchbark, and later with canvas, the canoes are very light, and thus may be carried a short distance from the navigable waterways to nearby lakes. Setting low in the water and easy to maneuver, the canoes are the most effective modes of travel on the lakes for the purpose of hunting. Aluminum canoes and riverboats may also be used on the lakes, but it is not presently known with what success. Larger crafts, such as wooden riverboats, are too cumbersome and conspicuous to be used on the lakes when hunting small game. Not surprisingly, the historical record fails to reveal instances of riverboat traffic on the lakes.

Lakes 1

In the area northwest of the confluence of the Nabesna and Chisana Rivers, and southwest of the Tanana River, there are a number of lakes which are least likely to be highways of commerce. These lakes --- Big John Lake, Nuziamundcho Lake, Tsilchin Lake, Joe Lake, Tlechegn Lake, Fish Camp Lake, Tlocogn Lake, Long Lake, and numerous smaller unnamed lakes --- are not located near communities or routes of travel; and are virtually inaccessible in the summer owing to their location in an extensive area of marshland, bogs, swamps, and tundra. One of the largest lakes, Nuziamundcho Lake is about two miles long and about 0.5 mile wide, with its length running in an east-west direction. Another of the larger lakes, Big John Lake is irregularly shaped; it is about 1.5 miles long and 1.5 miles wide; it is situated at the base of Big John Hill (elevation 1900') while hills, 30 feet high, border its eastern perimeter. The remaining lakes, including Tlocogn Lake, Fish Camp Lake, and Tlechegn Lake, are circular in shape. Tlocogn Lake is about one mile long and 0.5 mile wide. The others are smaller.

All but two of the lakes in this area are landlocked. Both Fish Camp Lake and Big John Lake have outlets --- small and narrow creeks. The creek draining Fish Camp Lake empties into a slough of the Tanana River. The creek flowing into Big John Lake heads in numerous small lakes located in the marshlands and tundra in the south.

With the exception of Big John Lake and Nuziamundcho Lake, the lakes are bordered by swamp, tundra, or marshland. Big John Lake abuts a wooded area, so it is likely that its northern shoreline is generally

firm. Swamp or marshland prevails on its southern perimeter. Nuziamundcho Lake is bordered by swamp or marshland on its eastern, western, and northern perimeter, and by wooded land interspersed with marshland on its southern perimeter.

For all practical purposes, the lakes are inaccessible by land or water. Each lake is located a considerable distance from the customary routes of travel: the Tanana River and the Alaska Highway. Distances range from less than 0.5 mile in the case of Tlocogn Lake to more than four miles in the case of Big John Lake. Nuziamundcho Lake is located about two miles as the crow flies from the Tanana River.

Very little activity occurs on or near the lakes. The U.S. Geological Survey map (Tanacross A-3) dated 1948 illustrates several cabins on the west bank of Tlechehn Lake. Evidently the cabins are no longer occupied, for the only record of activity in this area concerns one or two people traveling from the Alaska Highway in the winter in order to trap animals. Master Title Plats do not illustrate any Native Allotments or other land uses in this area. Fishing and muskrat hunting may have attracted some people to the lakes in the past. And there is a possibility that timber near Big John Hill may someday be harvested. No other natural resources of commercial value or prospective value are known to exist in this area.

Clearly, none of the lakes in this area affords a potential highway of commerce. There are no known resources of value in the area; or at least none of sufficient value to sustain a community, or seasonal camp. In the event that local resources proved valuable, the lakes would not be critical in the development of the resources. In view of the rugged and wet terrain, development of local resources would require construction of a trail or road from the Tanana River or the Alaska Highway. The construction of a summer road from the Alaska Highway is most unlikely in view of the expense that a bridge over the Tanana River would entail. The alternative would be to travel to this area in the winter. The record indicates that most overland travel in this area is in fact done in the winter. People might reach some of the lakes in the summer by traveling short distances overland from the Tanana River with a light canoe. It is highly unlikely that anyone would portage from the river to the lakes with a heavy riverboat. Even if they did, there is simply nowhere to go on the lake. Riverboat traffic on the lakes has not occurred, and it is not likely to occur in the future.

Lakes 2

Similarly, lakes located in the uplands south of Northway and north of the Black Hills are not likely to be potential highways of commerce. These lakes---Birch Lake, Dog Lake, Hillside Lake, Tushaday Lake, Pullin Lake, Long Lake, Chidek Lake, and various unnamed lakes---are not, with one exception, located immediately adjacent to communities or routes of travel. However, they are accessible by land in the summer and do have shorelines suitable for improvements. Most of the

lakes tend to be long and narrow, trending in a northwest direction. Dog Lake, the largest one in this area, is about 2.5 miles long, and less than 0.5 mile wide. The others are significantly less than two miles long, and all are 0.5 mile or less in width. All but two are landlocked. Dog Lake is drained on its southeast by a small creek which flows northward to empty into Charlieskin Creek. Long Lake is drained on its southeast and by a short creek emptying into Fish Lake.

The lakes are located in a timbered area, and thus are likely to have firm shorelines. Low hills flank the lakes in the southwest. Long Lake is bordered by marshland or tundra only on its southeast perimeter.

Being landlocked, most of the lakes in this area are inaccessible by water. The creeks draining Dog Lake and Long Lake are certainly too shallow for boat traffic. However, most of the lakes are accessible by land from the Northway Junction Road. As a matter of fact, an unimproved road extends from the Northway road to Pullin Lake. There is little in the topography of this area to prevent the construction of a road or trail from the Northway road to the other lakes. Construction of a road or trail from the Nabesna or Chisana Rivers or from the Alaska Highway to this area is highly unlikely, due to extensive marshlands and bog lakes in the east, and the necessity of a bridge over Chisana River. A road or trail from the Nabesna River is even less likely. If a road were constructed, it would most likely be a feeder to the Northway Junction Road. Pullin Lake is about two miles from the road. Dog Lake and Birch Lake are located about five miles and seven miles, respectively, from the Northway road.

Both Hillside Lake and Dog Lake are used by local residents for the purpose of fishing, trapping, and hunting. Other lakes in this area may support similar activities. Several Native allotments are located on Dog Lake; one on Hillside Lake; and one straddles the land separating Pullin Lake and Long Lake. Pullin Lake was once used for recreation purposes, and perhaps as a source of water for military facilities; it was later used as a garbage dump.

Again, none of the lakes in this area affords a potential highway of commerce. Located only a short distance from the Northway Junction Road, the lakes may someday be reached by road, as is Pullin Lake today. Systematic development of resources, whether timber or minerals, in the area would require the construction of a year-round road from Northway. While the lakes may one day support homes on its shores, summer access to the lakes would be dependent upon a road or by airplane on pontoons. The development of local resources would not be dependent upon riverboat traffic on such small lakes. People could drive around and across Dog Lake, for example; otherwise there is no place to go on the lake.

Lakes 3

Lakes near Northway and Northway Village are also unlikely highways of commerce. Including Skate Lake, Hudeuc Lake, Pauline Lakes, Tontethaimund Lake, Cemetery Lake, Andrew Lake, the unnamed lake in Sections 23-26, T. 14 N., R. 18 E., C.R.M., the unnamed lake in Sections 2 and 3, T. 13 N., R. 18 E., Section 35, T. 14 N., R. 18 E., C.R.M., and various other unnamed lakes, the lakes are very small, the majority being 0.5 mile in length and width. The largest lake, Tontethaimund Lake is about 1.75 miles long, and less than 0.5 mile wide.

Bank characteristics vary considerably from one lake to another. More than half of the shoreline of the unnamed lake in Sections 23-26, T. 14 N., R. 18 E., C.R.M., are solid. In the case of Skate Lake, the shores are gradual and solid, the banks being five feet high in some places. In contrast, the banks of Tontethaimund Lake are marshy, solid in a few places only.

Although all are landlocked, the lakes are easily accessible to local residents by road or trail. One may reach Tontethaimund Lake from the Northway Junction Road or from Moose Creek by a short portage. The Pauline Lakes may be reached by portaging from Tontethaimund Lake or from a slough of the Nabesna River. Several of the lakes are within walking distance of Northway Village and Northway.

With communities nearby, much activity occurs on the lakes. Northway Village is virtually located on the banks of Skate Lake; thus it is not surprising to find considerable use of canoes, light motorboats, and floatplanes on this lake. Local residents use small boats to hunt muskrats on Tontethaimund Lake and on the unnamed lake in Sections 23-26, T. 14 N., R. 18 E., C.R.M. Native allotments are numerous in this area. Some are located on the southeast shore of Tontethaimund Lake, adjacent to the Northway Junction Road; on the southwest shore of the north Pauline Lake; on the north and east banks of the unnamed lake in Sections 2 and 3, T. 13 N., R. 18 E., and Section 35, T. 14 N., R. 18 E., C.R.M.; and on the north shore of the unnamed lake in Section 8, T. 14 N., R. 19 E., C.R.M.

Considering all of these factors - the proximity of communities and routes of travel, shoreline characteristics, water depth, local resources, etc., one would at first glance expect the lakes to be highways of commerce. Quite the contrary is true. Local residents may hunt, fish, and play on the lakes, but they do not rely upon the lakes as routes of travel. Rather, the communities rely upon the Northway Junction Road-Alaska Highway system as well as airplanes for travel, trade, and commerce. No amount of riverboat traffic, if it were ever to develop on the lakes, would meet the needs of the local communities. Clearly, none of the lakes in this area are potential highways of commerce.

Lakes 4

Immediately adjacent to Chisana River, Mark Creek, and the Alaska Highway, all established routes of travel, Shashamund Lake, Thadthamund Lake, Eliza Lake, Steve Lake, Yarger Lake, Tenmile Lake, the unnamed lake in Sections 3 and 4, T. 13 N., R. 20 E., C.R.M., the unnamed lake in Sections 33 and 34, T. 14 N., R. 20 E., C.R.M., and numerous unnamed lakes in this area are also unlikely highways of commerce. Shashamund Lake is little more than one mile long, and less than 0.75 mile wide. Eliza Lake, Yarger Lake and Deadman Lake are all less than 1.5 miles long, and about one mile wide. Tenmile Lake is about two miles long, and 0.5 mile wide. Other lakes in this area are smaller. The majority of the lakes are landlocked. Those that are not, are drained by very small creeks.

Shashamund Lake and Thadthamund Lake appear to be bordered by marshlands. It is doubtful that much of their shorelines are solid. The larger lakes located between the Alaska Highway and Chisana River have varying shoreline characteristics. The shorelines are generally firm on the eastern perimeters, and marshy on the western perimeters. In the case of the unnamed lake in Sections 3 and 4, T. 13 N., R. 20 E., C.R.M., the marsh extends five to 40 feet in and around the lake. Marsh also extends 15 to 20 feet in and around the two unnamed lakes in Sections 33 and 34, T. 14 N., R. 20 E., C.R.M. Except on its western shore, where a very narrow strip of solid ground exists, marshland is characteristic of the shore of Tenmile Lake.

Despite a rather steep bank and dense vegetation, lakes adjacent to the Alaska Highway are readily accessible by land from the highway. Unimproved roads extend to campgrounds near Deadman Lake and Yarger Lake, and a road extends to a point near Eliza Lake. These lakes may also be reached from the Chisana River by short portages. The portages to Steve Lake and Eliza Lake are probably less than 100 yards. Access to Deadman Lake, Tenmile Lake, Yarger Lake, and the two large unnamed lakes would be very difficult, as marshland and sloughs would have to be crossed. Shashamund Lake and Thadthamund Lake may be reached by means of portages from the Nabesna River on the Chisana River. The same may also be true for lakes near Mark Creek.

Deadman Lake, Eliza Lake, Steve Lake, and Yarger Lake are subject to moderate amounts of recreation and subsistence activity. Gaining access to the lakes from the roads and campgrounds, people often hunt ducks and fish as well as drive light motorboats on Deadman Lake and Yarger Lake. Lakes adjacent to the Alaska Highway are also subject to muskrat hunting. Local residents may also hunt and fish on Shashamund Lake, Thadthamund Lake, and other lakes immediately west of Chisana River and Mark Creek. One Native allotment is located on Yarger Lake; one on Eliza Lake; one on Steve Lake; and one on Shashamund Lake.

None of the lakes in this area are considered to be potential highways of commerce. Lakes near the Alaska Highway are readily accessible from the road, and the record indicated that these lakes are

customarily reached overland from the highway. The lakes may also be reached from the Chisana River, but only by crossing rough wet terrain. The same is true for lakes immediately adjacent to the Chisana River or Mark Creek. In all cases, it is highly improbable that riverboats would be used on the lakes. The resources are too limited, and the lakes too small, for use in travel, trade, and commerce. In the event that commercial resources were discovered, development would certainly hinge upon the construction of a summer, or more likely, a winter road. With access to Chisana River available from the Chisana River bridge on the Northway Junction Road, it is extremely doubtful that any of the lakes near the Alaska Highway will ever figure in a route of travel to the Chisana River.

C. M. Brown


 United States Department of the Interior

 ALASKA NATIVE CLAIMS APPEAL BOARD
 P.O. BOX 2433
 ANCHORAGE, ALASKA 99510

NORTHWAY NATIVES, INC.

ANCAB VLS 78-57

Decided August 5, 1981

Appeal from the Decision of the Alaska State Director,
 Bureau of Land Management F-14912-A and F-14912-B.

Partial Decision; Affirmed in Part; Modified in Part.

1. Alaska Native Claims Settlement Act: Navigable Waters--Alaska: Navigable Waters: Generally

Where the Bureau of Land Management has redetermined that water bodies which are the subject of an appeal are navigable, and where the Board finds that the facts in the record upon which the Bureau of Land Management made its redetermination meet the essential elements of navigability, and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

- 2. Alaska Native Claims Settlement Act: Administrative Procedure: Decision to Issue Conveyance--
Alaska Native Claims Settlement Act: Administrative Procedure: Publication

Redetermination by the Bureau of Land Management of navigability of water bodies while jurisdiction over the subject water bodies is in the Alaska Native Claims Appeal Board is not a "decision" of the Bureau of Land Management, and notice thereof is not required to be published pursuant to 43 CFR 2650.7.

3. Alaska Native Claims Settlement Act: Alaska Native Claims Appeal Board: Appeals: Dismissal

Absent reasons justifying continuance of an appeal as to a particular issue, an appeal will be dismissed when the appellant before the Board withdraws its appeal of that issue.

APPEARANCES: Peter J. Aschenbrenner, Esq., Aschenbrenner and Savell, and David Wolf, Esq., Keane, Harper, Pearlman and Copeland, for appellant; Elizabeth S. Ingraham, Esq., for Doyon, Limited; M. Francis Neville, Esq., Office of the Regional Solicitor, for Bureau of Land Management;

Shelley J. Higgins, Esq., and Martha T. Mills, Esq.,
Department of Law, for State of Alaska.

OPINION BY ALASKA NATIVE CLAIMS APPEAL BOARD

Summary of Appeal

Appellant asserted as one of the issues appealed, the failure of the Bureau of Land Management to determine that various water bodies were navigable and to exclude the submerged lands of such respective water bodies from the Decision to Issue Conveyance.

The Board held that when the Bureau of Land Management's review of navigability shows a factual basis for redetermining the appealed water bodies to be navigable within established guidelines, the Board will decide that such water bodies are navigable.

The Board accepted appellant's withdrawal of appeal as to the remaining water bodies unaffected by Bureau of Land Management review and redetermination, and as there were no objections, dismissed the appeal as to the issues of navigability.

Jurisdiction

The Alaska Native Claims Appeal Board, pursuant to delegation of authority to administer the Alaska Native Claims Settlement Act, 85 Stat. 688, as amended, 43 U.S.C. §§ 1601-1628 (1976 and Supp. I 1977) (ANCSA), and the implementing regulations in 43 CFR Part 2650 and 43 CFR Part 4, Subpart J, hereby makes the following findings, conclusions and decision.

Procedural Background

Northway Natives, Inc. (Northway), filed village selection applications F-14912-A, as amended, on Oct. 22, 1974, and F-14912-B, as amended, on Dec. 12, 1974, for lands located near the Village of Northway. The applications were filed under the provisions of § 12(b) of the Alaska Native Claims Settlement Act (ANCSA), Dec. 18, 1971 (85 Stat. 688, 701; 43 U.S.C. §§ 1601, 1611(a) (Supp. V, 1975)).

In response to these applications the Bureau of Land Management (BLM) published in 43 FR 28051 (June 28, 1978), its Decision to Issue Conveyance (DIC) of land to Northway. Northway appealed on July 28, 1978. One issue raised by Northway in Statement of Reasons was that the BLM erred in

its June 26, 1978, decision requiring Northway to select the beds of certain water bodies and sua sponte approving said lands for conveyance to Northway.

On Feb. 27, 1980, BLM amended the DIC dated June 26, 1978, by its Decision entitled Decision of June 26, 1978 Recinded [sic] in Part Additional Lands Proper for Village Selection Approved for Interim Conveyance. In this amendment BLM published notice that the following additional water bodies were determined to be nonnavigable and therefore, the lands underlying these water bodies were public lands available for selection pursuant to § 12(a) of ANCSA:

Fish Lake;
 Unnamed lake in NW $\frac{1}{4}$, Sec. 2, T. 13 N., R. 19 E.,
 Copper River Meridian;
 Open Creek and all lakes it flows through;
 Charleskin Creek and all lakes it flows through.

A conference was held Jan. 21, 1980, to set a briefing schedule taking into account difficulties in segregation of numerous unnamed water bodies and possible impact of pending amendments to ANCSA regarding submerged lands. The Board ordered the following action and briefing schedule:

a. BLM, with assistance from Northway and Doyon shall segregate water bodies affected by RLS 77-1, RLS 78-1 and VLS 78-57 within thirty (30) days from the date of this Order.

b. BLM shall have up to sixty (60) days from the date of this Order to review RLS 77-1, RLS 78-1 and VLS 78-57 and to serve upon all parties the basis for determining the water bodies on appeal to be navigable or nonnavigable.

c. Appellants shall have sixty (60) days from the date of service of BLM's response to file on each appeal: (1) a request to suspend action on certain water bodies, as desired, pending passage of the Submerged Lands Amendment; (2) a statement of reasons pertaining to those water bodies remaining in active appeal status; and (3) any other briefs the parties may wish to file.

As directed the BLM filed its Review and Basis for Navigability Determination on Mar. 28, 1980. Upon review the following water bodies were determined to be navigable:

Nabesna River
 Mark Creek
 Fish Lake
 Unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M.
 Unnamed lake in Sections 14-15, 22-26, T. 14 N., R. 19 E., C.R.M.
 Moose Creek to the unnamed lake in Sections 21 and 28, T. 14 N., R. 19 E., C.R.M.
 Chisana River

Of the above-named water bodies, only Fish Lake had been found to be nonnavigable in BLM's amendment of Feb. 27, 1980, to the DIC. No other water bodies in the selection area were determined to be navigable.

The Board by order dated Aug. 21, 1980, approved a stipulation by the parties as follows:

On July 10, 1980, the Bureau of Land Management, State of Alaska and Northway Natives, Inc., filed a Stipulation to allow Northway Natives, Inc. to add to its appeal, concerning whether or not certain lands are under navigable waters, all lands designated by the State of Alaska on its water delineation maps of 1978 and June 25, 1979, which were not included in Northway Natives, Inc.'s original appeal in November of 1978.

The effect of the Board's order was to include in the appeal the status of those water bodies which were not included in the original appeal.

In its Response to ANCAB Order of January 21, 1981, dated Apr. 8, 1981, Northway stated that it "desires to withdraw its appeal on the navigability issues." Northway provides the following basis and condition to the withdrawal:

Its withdrawal of its appeal, however, is based on the understanding that the BLM decisions concerning navigability as set forth in the decision of interim conveyance of June 26, 1978, and as modified by the BLM's decision attached to solicitor's pleading in this matter entitled Review and Basis for Navigability Determinations dated March 28, 1980, are the decisions on which Northway Natives, Inc. will receive its interim conveyance with respect to the navigability issues. Further, by dropping its appeal in this ANCAB proceeding, Northway Natives, Inc. does not waive any rights it has under Section 901 of Public Law 96-487. Northway Natives, Inc. therefore requests that ANCAB issue an order dismissing the navigability issues from this appeal based on the two foregoing understandings of Northway.

Northway's Response at 2-3.

Decision

The appeal record shows that documents upon which Interim Conveyance (IC) would be based consist of the DIC dated June 26, 1978, and the decision of the BLM entitled Decision of June 26, 1978 Recinded [sic] in Part Additional Lands Proper for Village Selection Approved for Interim Conveyance, dated Feb. 27, 1980. The Review & Basis for Navigability Determinations, filed Mar. 28, 1980, is not a decision of the BLM for purpose of IC. Therefore, the Board is not in a position to accept Northway's understanding regarding the effect of the review dated Mar. 28, 1980, without taking final action for the Department.

In Appeal of Bristol Bay Native Corporation, 4 ANCAB 355, 87 I.D. 341 (1980) [VLS 80-2], the Board held that:

Where the BLM has redetermined that water bodies which are the subject of an appeal pending before the Board are navigable, and where the Board finds that the facts in the record upon which BLM made its redetermination meet the essential elements of navigability enunciated in Appeal of Doyon, Ltd., 4 ANCAB 50, 86 I.D. 692 (1979) [RLS 76-2], and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

87 I.D. at 346.

The Board also held that:

[F]or purposes of clarification, * * * redetermination by the BLM of navigability of water bodies while jurisdiction over such water bodies is in the Alaska Native Claims Appeal Board is not a 'decision' of the BLM, and notice is not required to be published pursuant to 43 CFR 2650.7.

87 I.D. at 345.

Here, the BLM's review and resulting redetermination of navigability of certain water bodies listed herein was filed pursuant to the Board's order dated Jan. 22, 1980, while the Board retained jurisdiction over the issue of navigability and lands underlying water bodies affected by Northway's appeal with respect to the issue of navigability.

In this appeal, the Board finds that the record upon which BLM relies for its redetermination of Mar. 28, 1980, presents facts concerning use and susceptibility of use which meet the essential elements of navigability enunciated in Appeal of Doyon, Limited, 4 AN CAB 50, 86 I.D. 692 (1979) [RLS 76-2]. The Board further finds that the record discloses no dispute to the facts alleged in support of a finding of navigability.

Accordingly, the Board finds Nabesna River, Mark Creek, Fish Lake, the unnamed lake in Secs. 21 and 28, T. 14 N., R. 19 E., C.R.M., the unnamed lake in Secs. 14-15, 22-26, T. 14 N., R. 19 E., C.R.M., Moose Creek to the

unnamed lake in Secs. 21 and 28, T. 14 N., R. 19 E., C.R.M., and the Chisana River to be navigable. The BLM is hereby Ordered to exclude these water bodies from conveyance under ANCSA to Northway and Doyon. The Board has authority under 43 CFR 4.1(b)(5) to "consider and decide finally for the Department appeals to the head of the Department." Such finding by the Board is not a decision of the BLM, and notice thereof is not required to be published pursuant to 43 CFR 2650.7. However, the Board's finding does govern the interim conveyance to be issued to Northway.

[1] Where the BLM has redetermined that water bodies which are the subject of an appeal are navigable, and where the Board finds that the facts in the record upon which the BLM made its redetermination meet the essential elements of navigability, and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

[2] Redetermination by the BLM of navigability of water bodies while jurisdiction over the subject water bodies is in ANCAB, is not a "decision" of the BLM, and notice thereof is not required to be published pursuant to 43 CFR 2650.7.

The Board's finding of the navigability of certain water bodies, based on BLM's determination, requires that the affected submerged lands of these water bodies will be excluded from the interim conveyance. The Board must now examine Northway's withdrawal of its appeal of navigability as to the remaining water bodies. The Board accepts Northway's above-referenced response filed on Apr. 10, 1981, as withdrawing from this appeal the issue of navigability of the remaining water bodies within the selected lands.

Acceptance of Northway's voluntary withdrawal of the remaining issues of navigability provides the basis for the Board to dismiss those issues from the appeal. (See Appeal of Kenneth Arndt, 3 ANCAB 127 (1979) [VLS 78-34]; Appeal of Al L. Weathers, 3 ANCAB 165 (1979) [VLS 79-1].)

The Board notes Northway's reference to provision of § 901(b) of the Alaska National Interest Lands Conservation Act, P.L. 96-487, 94 Stat. 2371 (1980) (ANILCA), which states:

No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of water covering a parcel of submerged land selected by a Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act unless a determination by the Bureau of Land Management that the water

covering a parcel of submerged land is not navigable was validly appealed to such agency or board prior to the date of enactment of this Act. The execution of an interim conveyance or patent (whichever is executed first) by the Bureau of Land Management conveying a parcel of submerged land to a Native corporation or Native Group shall be the final agency action with respect to a decision by the Secretary of the Interior that the water covering such parcel is not navigable, unless such decision was validly appealed prior to the date of enactment of this Act to an agency or board of the Department of the Interior other than the Bureau of Land Management. [Emphasis added.]

No question has been raised as to the Board's jurisdiction over the appealed navigability issues in this appeal, or as to the fact that, without a timely appeal by Northway, BLM's DIC would become final for the Department under 43 CFR 2650.8.

This appeal predates the passage of ANILCA. Therefore, the appeal is properly within the jurisdiction of the Alaska Native Claims Appeal Board.

There are no other appellants in this appeal and no parties of record before this Board have opposed the appellant's withdrawal of its appeal as to the issues of navigability. No reasons justifying further proceedings on the navigability issues are apparent from the record.

[3] Absent reasons justifying continuance of an appeal as to a particular issue, an appeal will be

dismissed when the appellant before the Board withdraws its appeal of that issue.

Based upon the above findings and conclusions, Northway's request to withdraw the remaining issues of navigability from this appeal is granted. The Board hereby dismisses this appeal from BLM's determination of navigability of water bodies within lands selected under Northway's above-referenced applications in the DIC except as modified by the Board's decision herein.

The following water bodies within Northway's selection are found to be navigable based on the BLM's decision of June 26, 1978, and the Board's findings in this decision:

1. Tanana River and all its interconnecting sloughs.
2. Chisana River and all its interconnecting sloughs.
3. Nabesna River.
4. Mark Creek.
5. Fish Lake.
6. Unnamed lake in Secs. 21 and 28, T. 14 N., R. 19 E., C.R.M.
7. Unnamed lake in Secs. 14-15, 22-26, T. 14 N., R. 19 E., C.R.M.
8. Moose Creek to the unnamed lake in Secs. 21 and 28, T. 14 N., R. 19 E., C.R.M.

No other water bodies in the Northway selection area are found to be navigable.

This appeal record shows that all issues raised by the appellant, other than the four mentioned below, have been resolved by Board action, stipulation or withdrawal of appealed issues by the appellant. A review of the record shows that the following have been considered and were resolved:

(1) The Native allotment NAF-027296 Parcel A is resolved as part of the broader issue of U.S. Survey No. 2630 by the Board's decision of Feb. 26, 1981, which excluded the Native allotment.

(2) The easement issues in this appeal were considered to be mooted by the BLM's Modification of the Decision of June 26, 1978, to conform easements and Appeal of Northway Natives, Inc., ANCAB EC 79-1.

(3) The issue of Rejection of Selections Bordering Tanana River was withdrawn by stipulation between the BLM and Northway, filed Apr. 2, 1979. Item 6 of the Stipulation and Report on Status of Negotiations reads:

The BLM and Northway agree that the DIC under appeal did not affect the Northway selections bordering

the Tanana River appealed in Section VII of the Statement of Reasons. No adjudication of these selections has been made by the BLM. Northway therefore withdraws its appeal regarding these selections.

(4) On Aug. 1, 1979, Northway identified the issue of valid existing rights as one of eight outstanding issues and stated:

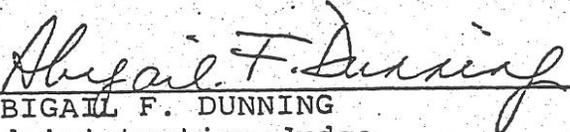
8. VALID EXISTING RIGHTS.

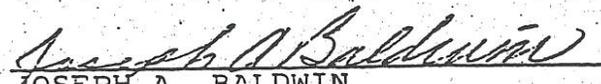
Northway has requested that ANCAB enter an order stating that the BLM has listed all valid existing rights known to it and to include in the order the list of valid existing rights. Also, Northway asked whether or not the State considered the road from the Alaska Highway to the airport at Northway and from the airport to the village site was a valid existing right to the State of Alaska. The State of Alaska has come forward and said that it is and Northway requests that ANCAB order that it be listed as a valid existing rights.

The roadway identified in this appeal has been acknowledged by a stipulation approved by the Board as a valid existing right.

It appears that all issues raised in this appeal have been resolved, and the appeal should be finally dismissed. However, in recognition of the number and complexity of issues raised by this appeal, the dismissal will not be effective until thirty (30) days from the date of this decision. During that period, the parties may advise the Board

of any issues raised on appeal which they believe have not been decided.


ABIGAIL F. DUNNING
Administrative Judge


JOSEPH A. BALDWIN
Administrative Judge

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2620/2651/75.4 (961)
F-030188 etc.(1)
F-14912-A
F-14912-B
F-14912-EE

State office
555 Cordova Street, Pouch 7-512
Anchorage, Alaska 99510

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 26 1978

RB 6/16/78
MAB 6/19/78
RB 6/23/78
HRL

DECISION

State of Alaska	:	F-030188, F-028020
Division of Lands	:	F-028021, F-028022
323 East Fourth Avenue	:	F-028023
Anchorage, Alaska 99501	:	State Selections
Northway Natives Incorporated	:	F-14912-A
P.O. Box 441	:	F-14912-B
Northway, Alaska 99764	:	Village Selections
Doyon, Limited	:	
First and Hall Streets	:	
Fairbanks, Alaska 99701	:	

State Selection Application Rejected in Entirety
State Selection Applications Rejected in Part
Village Selection Application Rejected in Part
Lands Proper for Village Selection
Approved for Interim Conveyance or Patent

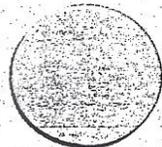
I. STATE SELECTION APPLICATION REJECTED IN ENTIRETY
STATE SELECTION APPLICATIONS REJECTED IN PART

The State of Alaska filed general purposes selection applications F-028020, F-028021, F-028022 and F-028023, all as amended, on June 23, 1961, pursuant to section 6(b) of the Alaska Statehood Act; and community grant selection application F-030188 on August 1, 1962, pursuant to section 6(a) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, secs. 6(a) and 6(b) (1970)). These applications selected lands near the Native village of Northway.

The lands encompassed in U.S. Survey 2781 and U.S. Survey 4063 are under Public Land Order 1732, dated September 17, 1958, which withdrew and reserved lands for use as an administrative

I. F-028020, F-028021, F-028022, F-028023

ADP 2
ESB



site and therefore were unavailable at the time of selection by the State of Alaska. Accordingly, State selection application F-030188 must be and is hereby rejected, as to the following described lands:

STATE SELECTION F-030188

14N19E U.S. Survey No. 2781, Alaska, Alaska Fire Control Service Administrative Site, situate on the northeasterly side of Northway Airport Road about 1/6 mile southwesterly of the intersection with the Alaska Highway at Mile 1265.

Containing 1.43 acres.

4 U.S. Survey No. 4063, Alaska, situated at the junction of the Alaska Highway and the Northway Airport Road.

Containing 13.53 acres.

Lots 2 and 3 of U.S. Survey 4375 were withdrawn for military purposes under Public Land Orders 1139 and 765, respectively, at the time of selection by the State of Alaska and were therefore unavailable. These Public Land Orders were subsequently revoked by Public Land Order 5458 and withdrawn for Native selection. Accordingly, State selection application F-030188 must be and is hereby rejected as to the following described lands:

STATE SELECTION F-030188

14N19E Lots 2 and 3 of U.S. Survey No. 4375, Alaska, located on both sides of the Alaska Highway at the junction of Northway Airport Road and the Alaska Highway at Mile 1265.

Containing 9.36 acres.

On December 18, 1971, section 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (Supp. V, 1975)), withdrew the lands surrounding the village of Northway, including the lands in the subject State selections, for Native selection.

The following described lands, which are State selected, have been properly selected under village selection application F-14912-B as set forth in part II of this decision. Accordingly, State selection applications F-030188, F-028020,

11
3

F-028021, F-028022 and F-028023 must be and are hereby rejected, as to the following described lands:

State Selection F-030188

14N19E Lot 1 of U.S. Survey No. 4375, Alaska, located on both sides of the Alaska Highway at the junction of Northway Airport Road and the Alaska Highway at Mile 1265.

Containing 130.68[✓] acres.

14N19E U.S. Survey No. 2782, Alaska, embracing lots 1 and 2, situated on the northerly side Alaska Highway at junction of Northway Airport Road and Alaska Highway at Mile 1265.

Containing 5.00 acres.

STATE SELECTIONS F-028020 AND F-028021

Copper River Meridian, Alaska (Unsurveyed)

T. 13 N., R. 20 E.

- Sec. 1, excluding U.S. Survey 4019;
- Sec. 2, excluding U.S. Survey 4019 and Native allotment F-12952 Parcel C;
- Sec. 3, all;
- Secs. 4 and 5, excluding Chisana River;
- Secs. 6, 7 and 8, all;
- Sec. 9, excluding Native allotment F-12957 Parcel A and Chisana River;
- Sec. 10, excluding U.S. Survey 4288 and Chisana River;
- Sec. 11, excluding U.S. Survey 4019 and Native allotments F-12117 Parcel A and F-12952 Parcel C;
- Sec. 12, excluding U.S. Survey 4019 and Native allotment F-12117 Parcel A;
- Secs. 13 and 14, all;
- Sec. 15, excluding Chisana River and its interconnecting slough;
- Sec. 16, excluding Native allotments F-12947 Parcel A and F-12957 Parcel A, Chisana River and its interconnecting sloughs;
- Secs. 17 to 20, inclusive, all;
- Sec. 21, excluding Chisana River and its interconnecting sloughs;
- Sec. 22, excluding the interconnecting slough of the Chisana River;
- Sec. 23, all;

Sec. 24, excluding U.S. Survey 3685;
 Secs. 25, 26 and 27, all;
 Secs. 28 and 29, excluding Chisana River and its inter-
 connecting sloughs;
 Sec. 30, all.

Containing approximately 18,287[✓] acres.

STATE SELECTIONS F-028022 AND F-028023

14N20E-
 U.S. Survey No. 2785, Alaska, embracing lots 1, 2 and
 3, situate on the westerly side Alaska Highway at
 Mile 1257.2, excluding Native allotment F-14765
 Parcel C.

Containing approximately 6.00 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 14 N., R. 20 E.

Secs. 4 to 9, inclusive, all;
 Sec. 16, all;
 Sec. 17, excluding Native allotment F-12945;
 Sec. 18, excluding U.S. Survey 4373 and Native allotments
 F-13566, F-13068 and F-013580 Parcel B;
 Sec. 19, excluding U.S. Survey 4177 and Native allotments
 F-014914 Parcel A, F-013580 Parcel B, F-13068 and
 Chisana River;
 Sec. 20, excluding U.S. Survey 4145B (Native
 allotment F-12145 Parcel 2), and Native
 allotments F-12945 and F-15052;
 Sec. 21, excluding U.S. Survey 3338, U.S. Survey 3338A
 and Native allotment F-15052;
 Secs. 22, 26 and 27, all;
 Sec. 28, excluding U.S. Survey 3338, U.S. Survey 3338A,
 U.S. Survey 3130, U.S. Survey 4145B (Native
 allotment F-12145 Parcel 2), U.S. Survey 3686,
 U.S. Survey 4360, U.S. Survey 5563 (Native
 allotment F-9632 Parcel A), Public Land
 Order 3689 and Native allotment F-12117
 Parcel B;
 Sec. 29, excluding U.S. Survey 4145B (Native
 allotment F-12145 Parcel 2) and Native
 allotment F-14765 Parcel B;
 Secs. 30 and 31, excluding Chisana River and its interconnecting
 sloughs;
 Sec. 32, excluding Native allotment F-14765 Parcels A
 and B, and Chisana River;
 Sec. 33, excluding U.S. Survey 2784, U.S. Survey 2785,

U.S. Survey 4360, Public Land Order 3689 and
 Native allotment F-14765 Parcel C and Chisana
 River;
 Secs. 34, 35 and 36, all.

Containing approximately 13,876[✓] acres.

Aggregating approximately 32,329 acres of which approximately 32,305 acres were properly selected by the State of Alaska prior to the lands being withdrawn by the Alaska Native Claims Settlement Act. When this decision becomes final, State selection application F-030188, rejected in its entirety, will be closed of record. Further action on State selection applications F-028020, F-028021, F-028022 and F-028023, as to those lands not rejected herein, will be taken at a later date.

II. VILLAGE SELECTION APPLICATION REJECTED IN PART
 LANDS PROPER FOR VILLAGE SELECTION
 APPROVED FOR INTERIM CONVEYANCE OR PATENT

Northway Natives Incorporated filed village selection applications F-14912-A, as amended, on October 22, 1974, and F-14912-B, as amended, on December 12, 1974, under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for lands located near the village of Northway, including all of Public Land Order (PLO) 3689.

On June 16, 1965, PLO 3689 withdrew 21.48 acres of land (the Lakeview Pumping Station) for use of the Department of the Army in connection with the Alaska Petroleum Pipeline System. Notice of intent to relinquish this facility was filed on August 22, 1973, by the Army Corps of Engineers and was reported to General Services Administration for disposal as property on November 21, 1974. As of December 18, 1974, the deadline for filing village selection applications, the lands in PLO 3689, containing 21.48 acres, were withdrawn for the military and unavailable for selection. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a).

Section 11(a)(1) withdrew certain lands in Alaska for village selection, excepting from such withdrawal:

. . . . lands withdrawn or reserved for national defense purposes. . . .

By decision of March 25, 1975, village selection application F-14912-B was rejected as to "U.S. Survey 2784, lot 1; U.S.

Survey 4360. Containing 18.85 acres." These U.S. surveys are within the boundaries of PLO 3689. This decision was not appealed and is final.

Therefore, PLO 3689, containing 21.48 acres, remains withdrawn for military purposes and is entirely unavailable for selection. Since the Native village of Northway was rejected only as to the 18.85 acres within the aforementioned U.S. surveys, village selection application F-14912-B must be and is hereby rejected as to:

Those lands withdrawn for PLO 3689 and outside of U.S. Survey 4360 and lot 1 of U.S. Survey 2784.

Containing approximately 2.63 acres.

Section 11(a)(2) withdrew for possible selection by the Native corporation those lands that have been selected by but not yet patented to the State under the Alaska Statehood Act. Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by section 11(a)(2).

As to the lands described below, the applications, as amended, submitted by Northway Natives Incorporated are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 32,305 acres of State selected lands for conveyance to Northway Natives Incorporated, for a cumulative total of 32,305 acres, which does not exceed the 69,120 acres permitted under section 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 107,648 acres, is considered proper for acquisition by Northway Natives Incorporated, and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

U.S. Survey No. 2630, Alaska. Nabesna (Northway) Air Navigation Site. Situate on the right bank of Nabesna River, approximately one mile southeast of Nabesna Village, excluding: Air Navigation Site 162, Public Land Order 4349, Quitclaim Deed dated June 1, 1966, Native allotment F-027296 Parcel A, Revocation and Restoration application F-025129, and Alaska Native Claims Settlement Act section 3(e) application F-36063.

Containing approximately 312 acres.

U.S. Survey No. 4375, Alaska, embracing lots 1 through 3 located on both sides of the Alaska Highway at the junction of Northway Airport Road and the Alaska Highway at Mile 1265.

Containing 140.04 acres.

U.S. Survey No. 2782, Alaska, embracing lots 1 and 2, situated on the northerly side Alaska Highway at junction of Northway Airport Road and Alaska Highway at Mile 1265.

Containing 5.00 acres.

U.S. Survey No. 3125, Alaska, Situated On the Northerly Side of the Alaska Highway At Mile 1264.

Containing 84.26 acres.

U.S. Survey No. 2785, Alaska, embracing lots 1, 2, and 3, situate on the westerly side Alaska Highway at Mile 1257.2, excluding Native allotment F-14765 Parcel C.

Containing approximately 6.00 acres.

Aggregating approximately 547.30 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 14 N., R. 17 E.

- Sec. 1, all;
- Sec. 2, excluding Native allotment F-12951;
- Secs. 3, 9 and 10, excluding F-20518 (Tetlin Reserve);
- Secs. 11 to 14, inclusive, all;
- Secs. 15, 16 and 22, excluding F-20518 (Tetlin Reserve);
- Secs. 23, 24 and 25, all;
- Secs. 26, 27 and 35, excluding F-20518 (Tetlin Reserve);
- Sec. 36, all.

Containing approximately 9,370 acres.

T. 14 N., R. 18 E.

- Sec. 1, excluding Native allotments F-13035 and F-13069 and Nabesna River;
- Sec. 2, excluding Native allotments F-13035 and F-13069;
- Secs. 3 to 10, inclusive, all;
- Sec. 11, excluding Native allotments F-13035 and F-13069 and Nabesna River;
- Sec. 12, excluding Native allotments F-13035 and F-13069, Nabesna River and its interconnecting slough;

- Sec. 13, excluding Native allotments F-030056 and F-12955 Parcel A, Nabesna River and its interconnecting slough;
- Sec. 14, excluding Nabesna River and its interconnecting sloughs;
- Secs. 15 to 21, inclusive, all;
- Sec. 22, excluding that portion of Nabesna River adjacent to and downstream of Nabesna village;
- Sec. 23, excluding U.S. Survey 4027, U.S. Survey 2630, Native allotment F-12952 Parcel A and that portion of Nabesna River downstream of Nabesna village;
- Sec. 24, excluding U.S. Survey 5091 and Native allotment F-030056;
- Sec. 25, excluding U.S. Survey 5091, U.S. Survey 4017, and U.S. Survey 2630;
- Secs. 26 and 27, excluding U.S. Survey 2630;
- Secs. 28 to 33, inclusive, all;
- Sec. 34, excluding U.S. Survey 4167, U.S. Survey 2630 and Native allotment F-027304;
- Sec. 35, excluding U.S. Survey 4157, U.S. Survey 2630, and Native allotments F-027304 and F-027296 Parcel A;
- Sec. 36, excluding U.S. Survey 2630, Public Land Order 1444 and Public Land Order 4349.

Containing approximately 19,427 acres.

T. 15 N., R. 18 E.

- Secs. 1 to 4, inclusive, all;
- Secs. 11, 12 and 13, all;
- Sec. 14, excluding Native allotment F-13046 Parcel A;
- Sec. 22, excluding Tanana River and its interconnecting sloughs;
- Sec. 23, excluding Native allotment F-12956, Tanana River and its interconnecting slough;
- Sec. 24, excluding Native allotment F-12956 and Tanana River;
- Secs. 25 and 26, excluding Tanana River and its interconnecting sloughs;
- Sec. 27, excluding Tanana River;
- Secs. 34 and 35, all;
- Sec. 36, excluding Nabesna River.

Containing approximately 10,015 acres.

T. 16 N., R. 18 E.

- Sec. 18, all;
- Sec. 19, excluding U.S. Survey 5135;
- Secs. 20, 29 and 30, all;
- Secs. 32 and 33, all.

Containing approximately 4,358 acres.

T. 13 N., R. 19 E.

- Sec. 1, all;
- Secs. 10 to 14, inclusive, all;
- Sec. 15, excluding Native allotments F-013592 Parcel B and F-12115 Parcel B;
- Sec. 22, all;
- Sec. 23, excluding Native allotments F-12115 Parcel C and F-13046 Parcel B;
- Secs. 24 and 25, all;
- Sec. 26, excluding Native allotment F-13046 Parcel B;
- Sec. 27, all.

Containing approximately 8,085 acres.

T. 14 N., R. 19 E.

- Sec. 1, excluding Native allotment F-12109;
- Sec. 2, excluding U.S. Survey 3125 and Native allotment F-12109;
- Sec. 3, excluding U.S. Survey 3125;
- Sec. 4, excluding Native allotments F-12977 and F-12110 and Chisana River;
- Sec. 5, excluding Native allotment F-12958 Parcel B;
- Sec. 6, excluding Native allotment F-12961 and Nabesna River;
- Secs. 7 and 8, all;
- Sec. 9, excluding U.S. Survey 2781, U.S. Survey 4375, U.S. Survey 4063, Public Land Order 1732, Native allotment F-12110, Chisana River and its inter-connecting slough;
- Sec. 10, excluding U.S. Survey 2781, U.S. Survey 4063, U.S. Survey 4375, U.S. Survey 2782, U.S. Survey 3793, U.S. Survey 3125, U.S. Survey 3226, U.S. Survey 3226A, Public Land Order 1732, Chisana River and its inter-connecting slough;
- Sec. 11, excluding U.S. Survey 3125, U.S. Survey 3226, U.S. Survey 3226A, U.S. Survey 5204; Native allotments F-12109, F-027035 Parcel A and F-12962; Homesite application F-855; and Chisana River;
- Sec. 12, excluding Native allotments F-12964, F-12962, F-12109 and F-027035 Parcel A;
- Sec. 13, excluding U.S. Survey 4373, Native allotments F-12241, F-13068, F-13566 and F-12962 and Chisana River;
- Sec. 14, excluding Chisana River;
- Sec. 15, excluding U.S. Survey 4371, Native allotment F-13044, Chisana River and its interconnecting sloughs;
- Sec. 16, excluding U.S. Survey 4371 and Chisana River;
- Sec. 17, all;
- Sec. 18, excluding Native allotment F-030056;
- Sec. 19, all;

- Sec. 20, excluding U.S. Survey 4102 (Native allotment F-013580 Parcel A) and Native allotment F-013592 Parcel A;
- Sec. 21, excluding U.S. Survey 4371 and Native allotment F-024675;
- Sec. 22, excluding the interconnecting slough of the Chisana River;
- Sec. 23, all;
- Sec. 24, excluding Native allotment F-13068 and Chisana River;
- Sec. 25, excluding the interconnecting sloughs of the Chisana River;
- Sec. 26, excluding Native allotment F-014914 Parcel B and the interconnecting slough of the Chisana River;
- Sec. 27, excluding the interconnecting slough of the Chisana River;
- Sec. 28, excluding Native allotment F-024675;
- Sec. 29, excluding U.S. Survey 4299, U.S. Survey 5094, U.S. Survey 4119 and Native allotments F-013592 Parcel A, F-014916 Parcel A and F-12948 Parcel A;
- Sec. 30, excluding U.S. Survey 2630, U.S. Survey 5094, Native allotments F-17780 and F-13043;
- Sec. 31, excluding Public Land Order 4349 and Native allotment F-13043;
- Secs. 32, 33 and 34, all;
- Sec. 35, excluding Native allotments F-12149 and F-12145 Parcel 1;
- Sec. 36, excluding Native allotment F-13045 and the interconnecting slough of the Chisana River.

Containing approximately 19,758 acres.

T. 15 N., R. 19 E.

- Secs. 19 and 20, all;
- Sec. 28, excluding military withdrawal application F-22389, Public Land Order 5164 and Native allotment F-14781;
- Sec. 29, excluding U.S. Survey 2911, Native allotments F-12950 and F-14316 Parcel B, Chisana River, Nabesna River and Tanana River;
- Sec. 30, excluding Native allotment F-12950, Tanana River, Nabesna River and Chisana River;
- Sec. 31, excluding Native allotment F-12961, Nabesna River, Tanana River and Chisana River;
- Sec. 32, excluding Native allotments F-12961 and F-12949, Chisana River and Nabesna River;
- Sec. 33, excluding Native allotments F-12949, F-12947 Parcel B and F-14316 Parcel C and Chisana River.

Containing approximately 3,925 acres.

T. 13 N., R. 20 E.

- Sec. 1, excluding U.S. Survey 4019;
- Sec. 2, excluding U.S. Survey 4019 and Native allotment F-12952 Parcel C;
- Sec. 3, all;
- Secs. 4 and 5, excluding Chisana River;
- Secs. 6, 7 and 8, all;
- Sec. 9, excluding Native allotment F-12957 Parcel A and Chisana River;
- Sec. 10, excluding U.S. Survey 4288 and Chisana River;
- Sec. 11, excluding U.S. Survey 4019 and Native allotments F-12952 Parcel C and F-12117 Parcel A;
- Sec. 12, excluding U.S. Survey 4019 and Native allotment F-12117 Parcel A;
- Secs. 13 and 14, all;
- Sec. 15, excluding Chisana River and its interconnecting slough;
- Sec. 16, excluding Native allotments F-12957 Parcel A, F-12947 Parcel A, Chisana River and its interconnecting sloughs;
- Secs. 17 to 20; inclusive, all;
- Sec. 21, excluding Chisana River and its interconnecting sloughs;
- Sec. 22, excluding the interconnecting slough of the Chisana River;
- Sec. 23, all;
- Sec. 24, excluding U.S. Survey 3685;
- Secs. 25, 26 and 27, all;
- Secs. 28 and 29, excluding Chisana River and its interconnecting sloughs;
- Sec. 30, all.

Containing approximately 18,287 acres.

T. 14 N., R. 20 E.

- Secs. 4 to 9, inclusive, all;
- Sec. 16, all;
- Sec. 17, excluding Native allotment F-12945;
- Sec. 18, excluding U.S. Survey 4373 and Native allotments F-13566, F-13068 and F-013580 Parcel B;
- Sec. 19, excluding U.S. Survey 4117 and Native allotments F-13068, F-013580 Parcel B, F-014914 Parcel A and Chisana River;
- Sec. 20, excluding U.S. Survey 4145B (Native allotment F-12145 Parcel 2) and Native allotments F-12945 and F-15052;
- Sec. 21, excluding U.S. Survey 3338, U.S. Survey 3338A and Native allotment F-15052;
- Secs. 22, 26 and 27, all;

- Sec. 28, excluding U.S. Survey 3338, Survey 3338A, U.S. Survey 4145B (Native allotment F-12145 Parcel 2), U.S. Survey 3686, U.S. Survey 3130, U.S. Survey 5563 (Native allotment F-9632 Parcel A), U.S. Survey 4360, Public Land Order 3689 and Native allotment F-12117 Parcel B;
- Sec. 29, excluding U.S. Survey 4145B (Native allotment F-12145 Parcel 2) and Native allotment F-14765 Parcel B;
- Secs. 30 and 31, excluding Chisana River and its inter-connecting sloughs;
- Sec. 32, excluding Native allotment F-14765 Parcels A and B, and Chisana River;
- Sec. 33, excluding U.S. Survey 4360, U.S. Survey 2784, U.S. Survey 2785, Public Land Order 3689, Native allotment F-14765 Parcel C and Chisana River;
- Secs. 34, 35 and 36, all.

Containing approximately 13,876 acres.

Aggregating approximately 107,101 acres.

Total aggregated acreage, approximately 107,648 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way, F-025907, for a Federal aid material site, located in the W $\frac{1}{2}$ of section 18, T. 14 N., R. 20 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
2. A right-of-way, F-025905, for a Federal aid material site, located in the E $\frac{1}{2}$ of section 29, T. 15 N., R. 19 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
3. A right-of-way, F-025926, for a Federal aid material site, located in the NW $\frac{1}{4}$ of section 4, T. 15 N., R. 18 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
4. A right-of-way, F-025909, for a Federal aid material site, located in the W $\frac{1}{2}$ of section 28, T. 14 N., R. 20 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.

5. A right-of-way, F-025923, for a Federal aid material site, located in the N $\frac{1}{2}$ of section 11, T. 14 N., R. 19 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
6. A right-of-way, F-025900, for a Federal aid material site, located in the W $\frac{1}{2}$ of section 12, T. 13 N., R. 20 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
7. A right-of-way, F-025791, for a Federal aid material site, located in the NW $\frac{1}{4}$ of section 10, T. 14 N., R. 19 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
8. A right-of-way, F-033056, for a Federal aid material site, located in the SW $\frac{1}{4}$ of section 32, T. 16 N., R. 18 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
9. A right-of-way, F-437, for a Federal aid highway (tourist turnout), located in the SE $\frac{1}{4}$ of section 13, T. 13 N., R. 20 E., Copper River Meridian. Act of August 27, 1958, as amended, 23 U.S.C. 317.
10. That Haines to Fairbanks pipeline right-of-way, F-010143, 50 feet in width, and all appurtenances thereto, constructed by the United States through, over, or upon the land herein described and the right of the United States, its agents or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States.
11. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)).
12. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file F-14912-EE, are reserved to the United States and subject to further regulation thereby:
 - a. (EIN 5 L, C5) An easement for an existing access trail fifty (50) feet in width from the Alaska

Highway easterly to the south fork of the Ladue River drainage and public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

- b. (EIN 14 L, C5) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway northerly to public lands in the Damundtali Lake area. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- c. (EIN 19 M, C5) A one (1) acre site easement upland of the ordinary high water mark in sections 9 and 10, T. 14 N., R. 19 E., Copper River Meridian, on the Chisana River at the Northway Road bridge. The site is for camping, staging and vehicle use.
- d. (EIN 19a M, C4) An easement for an existing access trail twenty-five (25) feet in width from site EIN 19 M, C5 on the Northway Road, northerly along the left bank of the Chisana River to the mouth of Moose Creek. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- e. (EIN 27 D9, C3, C5) An easement for an existing access trail fifty (50) feet in width from the Northway airport southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- f. (EIN 28 D1) An easement sixty (60) feet in width for an existing road from Northway village to the Northway airport. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- g. (EIN 29 D9) A site easement upland of the ordinary high water mark in section 21, T. 14 N., R. 19 E., Copper River Meridian, at the outlet of Fish Lake where it crosses an existing road between Northway and the Alaska Highway. The site is four (4) acres in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging, and vehicle use.

- h. (EIN 39 D1, C3, C5) An easement sixty (60) feet in width for an existing road from the Alaska Highway to an existing state campground on Deadman Lake. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- i. (EIN 41 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the navigable Tanana River throughout the selection area. Purpose is to provide for public use of waters having highly significant present recreational use.
- j. (EIN 42 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the navigable Nabesna River from its mouth to the village site of Nabesna in section 22, T. 14 N., R. 18 E., Copper River Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.
- k. (EIN 43 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the navigable Chisana River through the village selection. Purpose is to provide for public use of waters having highly significant present recreational use.
- l. (EIN 45 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of the Nabesna River from the Nabesna village site in section 22, T. 14 N., R. 18 E., Copper River Meridian, upstream through selected lands to public lands. Purpose is to provide for public use of waters having highly significant present recreational use.
- m. (EIN 46 I) An easement one hundred (100) feet in width for an existing road from the Northway airport southerly to the FAA TACAN site in section 36, T. 14 N., R. 18 E., Copper River Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

- n. (EIN 47 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other land survey purposes is reserved, together with the right to do all things necessary in connection therewith.
- o. (EIN 49b K) An easement one hundred (100) feet in width for an existing road and utility line from Beaver Creek Radio Relay Site to the AFTAC site in section 21, T. 15 N., R. 19 E., Copper River Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- p. (EIN 50 K) An easement one hundred (100) feet in width for an existing road from the Alaska Highway northerly to the Beaver Creek Radio Relay Site for access between the highway and the relay site. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- q. (EIN 51 K) An easement fifty (50) feet in width, twenty-five (25) feet on each side of the centerline of the cable, for an existing communications cable, from the ACS pole line along the Alaska Highway northerly to the Beaver Creek Radio Relay Site.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation Calista, et al v. Andrus and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to

the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. A temporary use permit, SP8-009, issued to Alaska Gateway School District on December 12, 1977, for removal of no more than 660 cubic yards of gravel from Federal aid material site (F-025791) located in the NW $\frac{1}{4}$ of section 10, T. 14 N., R. 19 E., Copper River Meridian;
4. The easement as established by Public Land Order 1613 (23 F.R. 2376), pursuant to the Act of August 1, 1956 (70 Stat. 898), for highway purposes, including appurtenant protective, scenic and service areas;
5. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and
6. The terms and conditions of the agreement dated April 28, 1978, between the Secretary of the Interior; Doyon, Limited; and Northway Natives Incorporated. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Northway Natives Incorporated, serialized F-14912-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

There is excepted and reserved any element of ownership from the lands hereby conveyed, including but not restricted to any estate or interest in property, or permit, or other right, transferred by the United States pursuant to the Alaska Communications Disposal Act approved November 14, 1967 (81 Stat. 441-444; 40 U.S.C. 771-792).

Northway Natives Incorporated is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date approximately 107,648 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 7,552 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described

above shall be granted to Doyon, Limited when conveyance is granted to Northway Natives Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following water bodies within the described lands are considered to be navigable:

Tanana River and all of its interconnecting sloughs;

Chisana River and all of its interconnecting sloughs; and

Nabesna River and all of its interconnecting sloughs; from its mouth to the village site of Nabesna in sec. 22 of T. 14 N., R. 18 E., Copper River Meridian.

Enclosed are copies of current status plats showing the lands approved for conveyance along with maps showing the easements to be reserved.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until JUL 28 1978 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Northway Natives Incorporated
Box 441
Northway, Alaska 99764

Doyon, Limited
First and Hall Streets
Fairbanks, Alaska 99701

State of Alaska
Division of Lands
323 East Fourth Avenue
Anchorage, Alaska 99501

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. (See enclosed ASO Form 2650-4.)

/s/ Sue A. Wolf

Chief, Selections and
Leasable Minerals Section

Enclosures:
ASO Form 2650-4
Cy 43 CFR Part 4, Subpart J
Plats
Maps
Legend

cc:

Joint Federal-State Land Use Planning
Commission for Alaska
733 West Fourth Avenue
Anchorage, Alaska 99501
(w/maps)

Interior Village Association
211 Cushman Street
Fairbanks, Alaska 99701
(w/maps)

Mr. George G. Moen (NPARE-PC) (CM-RRR)
Chief, Real Estate Division
Alaska District, Corps of Engineers
P.O. Box 7002
Anchorage, Alaska 99510
(w/maps)

Mr. L. D. Snell, Chief (CM-RRR)
Realty and Utility Branch, AAL-58
Federal Aviation Administration
U.S. Department of Transportation
632 West Sixth Avenue
Anchorage, Alaska 99501
(w/maps)

General Services Administration (CM-RRR)
Region 10
Auburn, Washington 98002
(w/maps)

Northway Village Council
P.O. Box 411
Northway, Alaska 99764

DM-F (202)
(w/maps)

F-010143 (2800)

F-025907 (2800)

F-025905 (2800)

F-025926 (2800)

F-025909 (2800)

F-025791 (2800)

F-025923 (2800)

F-025900 (2800)

F-033056 (2800)

F-437 (2800)

LBlack:rdm:pd 6/13/78

F-14912-B (2651)
✓ F-14912-EE (75.4)
(961)

LB 2/20/80

FEB 27 1980

LB 2/27/80

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

Northway Natives Incorporated : F-14912-B
Box 441 : Village Selection
Northway, Alaska 99764 :
:
Doyon, Limited :
First and Hall Streets :
Fairbanks, Alaska 99701 :

Decision of June 26, 1978 Recinded in Part
Additional Lands Proper for Village Selection
Approved for Interim Conveyance

By Decision to Issue Conveyance (DIC) dated June 26, 1978, certain lands in the vicinity of Northway were determined proper for village selection and approved for conveyance to Northway Natives Incorporated pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976)) (ANCSA).

On July 26, 1978, Northway Natives Incorporated appealed the DIC of June 26, 1978, to the Alaska Native Claims Appeal Board (ANCAB).

On August 20, 1979, a decision was issued modifying the DIC of June 26, 1978, as to the conformance of easements. This decision was appealed on September 20, 1979.

On December 26, 1978, ANCAB issued an "Order Approving Stipulation," which became final January 10, 1980, ordering the Bureau of Land Management to:

1. Vacate the DIC dated June 26, 1978, insofar as it approves for interim conveyance Sections 27 and 34, T. 15 N., R. 18 E., Copper River Meridian;
2. Approve for interim conveyance to Northway Natives Incorporated Sections 2 and 3, T. 13 N., R. 19 E., Copper River Meridian; and
3. Amend the Modification Decision conforming easements, dated August 20, 1979, to delete the reservation of easements designated EIN 29 D9; EIN 53 C4, C5, E and EIN 53a C4, C5, E.

This decision is being issued to comply with the above-mentioned ANCAB order to:

1. Vacate the DIC of June 26, 1978, as to certain lands;
2. Approve additional lands for interim conveyance; and
3. Delete 3 easements reserved to the United States from the Modification Decision conforming easements, dated August 20, 1979.

Therefore, the June 26, 1978, DIC is hereby vacated as to the following described lands:

Copper River Meridian, Alaska (Unsurveyed)

T. 15 N., R. 18 E.
 Sec. 27, excluding the Tanana River;
 Sec. 34, all.

Containing approximately 1,270 acres.

Also, the Easement Conformance Decision of August 20, 1979, is modified to delete the following:

- a. (EIN 29 D9) A one (1) acre site easement, upland of the ordinary high water mark, in Sec. 21, T. 14 N., R. 19 E., Copper River Meridian, on the right bank of Moose Creek. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the stream along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.
- b. (EIN 53 C4, C5, E) A site easement, upland of the ordinary high water mark, in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, on the south shore of Fish Lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.
- c. (EIN 53a C4, C5, E) An easement for a proposed access trail, twenty-five (25) feet in width, from trail EIN 53 C4, C5, E in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

Except as modified by this decision, the decisions of June 26, 1978, and August 20, 1979, stand as written.

On December 12, 1974, Northway Natives Incorporated, for the Native village of Northway, filed selection application F-14912-B, as amended, under the provisions of Sec. 12 of ANCSA, for the surface estate of certain lands in the vicinity of Northway.

Northway Natives Incorporated, in its application, excluded the following water bodies as being navigable:

Fish Lake;
 Unnamed lake in NW $\frac{1}{4}$, Sec. 2, T. 13 N., R. 19 E.,
 Copper River Meridian;
 Open Creek and all lakes it flows through;
 Charleskin Creek and all lakes it flows through.

Because these water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered reasonably compact if it excludes other lands available for selection within its exterior boundaries.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 1,280 acres, is considered proper for acquisition by Northway Natives Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Copper River Meridian, Alaska (Unsurveyed)

T. 13 N., R. 19 E.
Secs. 2 and 3, all.

Containing approximately 1,280 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and
3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Northway Natives Incorporated is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 107,658 acres. The remaining entitlement of approximately 7,542 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Northway Natives Incorporated, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

Enclosed is a copy of the current status plat showing the lands approved for conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest

in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until APR 2 1990 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. (See enclosed ASO Form 2650-4.)

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Northway Natives Incorporated
Box 441
Northway, Alaska 99764

Doyon, Limited
First and Hall Streets
Fairbanks, Alaska 99701

/s/ JUDITH KAMMINS ALBIETZ,

Chief, Division of ANCSA Operations

Enclosures:

ASO Form 2650-4
Cy 43 CFR Part 4, Subpart J
Plat
Map

cc: (without enclosures unless noted)

Mr. Earle Williams (flp)
17th Coast Guard District
P.O. Box 3-5000
Juneau, Alaska 99801
(w/map)

Patrick P. Ryan, Deputy Commissioner
Maintenance and Operations
Department of Transportation
and Public Facilities
Pouch 6900
Anchorage, Alaska 99502
(w/map)

Robert W. Ward, Commissioner
Department of Transportation
and Public Facilities
Pouch Z
Juneau, Alaska 99801
(w/map)

Regional Solicitor
Office of the Solicitor
510 L Street, Suite 408
Anchorage, Alaska 99501
(w/map)

Alaska Native Claims Appeal Board
P.O. Box 2433
Anchorage, Alaska 99510
(w/map)

Doyon, Limited
Attn: Legal Department
Elizabeth S. Taylor, Esq.
Doyon Building, Third Floor
First and Hall Streets
Fairbanks, Alaska 99701
(w/map)

Northway Natives Incorporated
David Wolf, Esq.
Keane, Harper, Pearlman & Copeland
420 L Street, Suite 302
Anchorage, Alaska 99501
(w/map)

State of Alaska
Office of Attorney General
Shelly J. Higgins, Esq.
420 L Street, Suite 100
Anchorage, Alaska 99501
(w/map)

General Services Administration
Vincent Crivella
Chief, Counsel, Real Property Area
Room 40313, GSA Building
18th and F Streets
Washington, D.C. 20405
(w/map)

General Services Administration
Region 10
Auburn, Washington 98002
(w/map)

Mr. Ron Swanson
Land Management Officer
State of Alaska
Department of Natural Resources
Division of Research and Development
323 East Fourth Avenue
Anchorage, Alaska 99501
(w/map)

941 Chief, Branch of Lands

922 Chief, Branch of Office Engineering

DM-F (200)

AM-(270)

DM-F (242)

961*LBlack*bjn*11-7-79*5766
BARB2*J pd*01/29/80
pd*02/05/80



IN REPLY REFER TO:

United States Department of the Interior

ALASKA NATIVE CLAIMS APPEAL BOARD
P.O. BOX 2433
ANCHORAGE, ALASKA 99510

DOYON, LIMITED

ANCAB RLS 78-1

Decided October 30, 1981

Appeal from the Decision of the Alaska State Director,
Bureau of Land Management F-19155-20.

Partial Decision; Reversed in Part.

1. Alaska Native Claims Settlement Act: Navigable Waters--Alaska: Navigable Waters: Generally

Where the Bureau of Land Management has redetermined that water bodies which are the subject of an appeal are navigable, and where the Board finds that the facts in the record upon which the Bureau of Land Management made its redetermination meet the essential elements of navigability, and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

2. Alaska Native Claims Settlement Act: Administrative Procedure: Decision to Issue Conveyance--Alaska Native Claims Settlement Act: Administrative Procedure: Publication

Redetermination by the Bureau of Land Management of navigability of water bodies while jurisdiction over the subject water bodies is in the Alaska Native Claims Appeal Board is not a "decision" of the Bureau of Land Management, and notice thereof is not required to be published pursuant to 43 CFR 2650.7.

APPEARANCES: James Q. Mery, Esq., for Doyon, Limited; M. Francis Neville, Esq., Office of the Regional Solicitor, for Bureau of Land Management; Shelley J. Higgins, Esq., Department of Law, for State of Alaska (listing limited to persons addressing the issue decided).

OPINION BY ALASKA NATIVE CLAIMS APPEAL BOARD

Summary of Appeal

Appellant asserted, as one of several bases of appeal, that the Bureau of Land Management erred in determining that three water bodies excluded from Doyon, Limited's selection application were nonnavigable and in considering selected, and approving for conveyance, the submerged lands underlying such water bodies.

Upon review of its navigability determinations, the Bureau of Land Management changed its position on two of the water bodies and found them to be navigable.

The Board holds that when the Bureau of Land Management's review of navigability shows a factual basis for redetermining the appealed water bodies to be navigable within established guidelines, the Board will decide that such water bodies are navigable.

Jurisdiction

The Alaska Native Claims Appeal Board, pursuant to delegation of authority to administer the Alaska Native Claims Settlement Act, 85 Stat. 688, as amended, 43 U.S.C. §§ 1601-1628 (1976 and Supp. I 1977) (ANCSA), and the implementing regulations in 43 CFR Part 2650 and 43 CFR Part 4, Subpart J, hereby makes the following findings, conclusions and decision.

Procedural Background

On Apr. 2, 1975, pursuant to § 12(c) of ANCSA, Doyon, Limited (Doyon) filed selection application F-19155-20 for lands located near the Native village of Northway. In response the Bureau of Land Management (BLM) issued, on June 23, 1978 and June 26, 1978, two decisions to issue conveyance of land to Doyon. Each decision concerned a portion of the lands selected by Doyon.

Doyon appealed the above-designated decisions of the BLM in a single appeal filed on July 27, 1978. One issue raised by Doyon was that the BLM erred in considering the Nabesna River, Fish Lake, and Lake Nuziamundcho, the beds of which water bodies had been excluded from Doyon's selection application, to be nonnavigable and the underlying submerged lands to have been selected by Doyon.

A conference was held Jan. 21, 1980, to establish a schedule for further briefing and possibly to set a hearing

date on the issue of navigability. On Jan. 22, 1980, following the conference, the Board ordered the following action and briefing schedule:

a. BLM, with assistance from Northway and Doyon shall segregate water bodies affected by RLS 77-1, RLS 78-1 and VLS 78-57 within thirty (30) days from the date of this Order.

b. BLM shall have up to sixty (60) days from the date of this Order to review RLS 77-1, RLS 78-1 and VLS 78-57 and to serve upon all parties the basis for determining the water bodies on appeal to be navigable or nonnavigable.

c. Appellants shall have sixty (60) days from the date of service of BLM's response to file on each appeal: (1) a request to suspend action on certain water bodies, as desired, pending passage of the Submerged Lands Amendment; (2) a statement of reasons pertaining to those water bodies remaining in active appeal status; and (3) any other briefs the parties may wish to file.

Following the granting of an extension of time, the BLM filed its Review and Basis for Navigability Determinations on Mar. 28, 1980. Upon review, the Nabesna River and Fish Lake were determined by BLM to be navigable. The BLM affirmed its earlier determination that Lake Nuziamundcho is nonnavigable.

Decision

In Appeal of Bristol Bay Native Corporation, 4 ANCAB 355, 87 I.D. 341 (1980) [VLS 80-2], the Board held that:

Where the BLM has redetermined that water bodies which are the subject of an appeal pending before the Board are navigable, and where the Board finds that the facts in the record upon which BLM made its redetermination meet the essential elements of navigability enunciated in Appeal of Doyon, Ltd., 4 ANCAB 50, 86 I.D. 692 (1979) [RLS 76-2], and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

87 I.D. at 346.

The Board also held that:

[F]or purposes of clarification, * * * redetermination by the BLM of navigability of water bodies while jurisdiction over such water bodies is in the Alaska Native Claims Appeal Board is not a 'decision' of the BLM, and notice is not required to be published pursuant to 43 CFR 2650.7.

87 I.D. at 345.

Here, the BLM's navigability review and resulting redetermination of navigability of Fish Lake and the Nabesna River were performed pursuant to the Board's order dated Jan. 22, 1980, while the Board retained jurisdiction over the issue of navigability and over the submerged lands underlying the subject water bodies.

The Board finds that the record upon which BLM relies for its redetermination of Mar. 28, 1980, presents facts concerning use and susceptibility of use which meet the essential elements of navigability enunciated in Appeal of Doyon, Limited, 4 ANCAB 50, 86 I.D. 692 (1979) [RLS 76-2]. The Board further finds that the record discloses no dispute to the facts alleged in support of a finding of navigability.

[1] Where the BLM has redetermined that water bodies which are the subject of an appeal are navigable, and where the Board finds that the facts in the record upon which the BLM made its redetermination meet the essential elements of navigability, and where the facts in the record are undisputed so that no issue of fact as to navigability remains before the Board, then the Board will find the water bodies to be navigable.

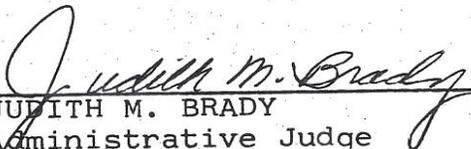
Accordingly, the Board finds the Nabesna River and Fish Lake to be navigable. The BLM is hereby Ordered to exclude these water bodies from conveyance under ANCSA to Doyon.

The Board has authority under 43 CFR 4.1(b)(5) to "consider and decide finally for the Department appeals to the head of the Department." The above finding by the Board that the Nabesna River and Fish Lake are navigable is not a decision of the BLM, and notice thereof is not required to be published pursuant to 43 CFR 2650.7. However, the Board's finding does govern the conveyance to be issued to Doyon.

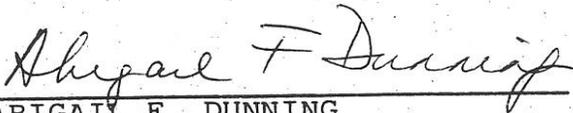
[2] Redetermination by the BLM of navigability of water bodies while jurisdiction over the subject water bodies is in the Board is not a "decision" of the BLM, and notice thereof is not required to be published pursuant to 43 CFR 2650.7.

The portion of this appeal relating to the navigability of Lake Nuziamundcho will be resolved by future action of the Board.

This represents a unanimous decision of the Board.



JUDITH M. BRADY
Administrative Judge



ABIGAIL F. DUNNING
Administrative Judge



JOSEPH A. BALDWIN
Administrative Judge

DISTRIBUTION:

Doyon, Limited
James Q. Mery, Esq.
Doyon Building - Third Floor
201 First Avenue
Fairbanks, Alaska 99701

Bureau of Land Management
Office of the Regional Solicitor
M. Francis Neville, Esq.
510 L Street, Suite 100
Anchorage, Alaska 99501

Department of Law
Office of the Attorney General
Shelley J. Higgins, Esq.
420 L Street, Suite 100
Anchorage, Alaska 99501

courtesy copy:

State Director, Bureau of Land Management
State of Alaska, Dept. of Natural Resources, Div. of Research
and Development

2652/75.4 (961)
F-19155-20
F-21779-20

State Office
555 Cordova Street, Pouch 7-512
Anchorage, Alaska 99510

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 23 1978
JB 6/16/78
Mpb 6/19/78

DECISION

Doyon, Limited : F-19155-20
First and Hall Streets : Regional Selection
Fairbanks, Alaska 99701 :

JB 6/23/78
Mpb

Lands Proper for Regional Selection
Approved for Interim Conveyance

On April 2, 1975, Doyon, Limited filed selection application F-19155-20, as amended, under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to section 11(a)(1) for the Native village of Northway.

As to the lands described below, selection application F-19155-20, as amended, submitted by Doyon, Limited pursuant to section 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 12(c), aggregating approximately 115,009 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to section 14(e) of the Alaska Native Claims Settlement Act:

Copper River Meridian, Alaska (Unsurveyed)

T. 12 N., R. 18 E.
Secs. 1 to 36, inclusive, all.

Containing approximately 22,806 acres.

T. 13 N., R. 17 E.

Sec. 1, all;
 Secs. 2, 10 and 11, excluding F-20518 (Tetlin Reserve);
 Sec. 12, all;
 Secs. 14, 15 and 22, excluding F-20518 (Tetlin Reserve);
 Secs. 27 and 34, excluding F-20518 (Tetlin Reserve);
 Sec. 36, all.

Containing approximately 4,010 acres.

T. 13 N., R. 19 E.

Secs. 5 to 9, inclusive, all;
 Sec. 16, excluding Native allotment F-013592 Parcel B;
 Secs. 17 to 21, inclusive, all;
 Secs. 28 to 34, inclusive, all;
 Secs. 35 and 36, excluding U.S. Survey 4372.

Containing approximately 12,721 acres.

T. 15 N., R. 17 E.

Secs. 1 and 2, all;
 Secs. 7 and 8, excluding F-20518 (Tetlin Reserve);
 Secs. 10 to 16, inclusive, all;
 Secs. 17 to 20, inclusive, excluding F-20518
 (Tetlin Reserve);
 Secs. 21 to 27, inclusive, all;
 Secs. 28 and 29, excluding F-20518 (Tetlin Reserve);
 Secs. 33 and 34, excluding F-20518 (Tetlin Reserve);
 Secs. 35 and 36, all.

Containing approximately 15,225 acres.

T. 15 N., R. 19 E.

Secs. 1 to 13, inclusive, all;
 Secs. 14 and 15, excluding Public Land Order 5164;
 Secs. 16, 17 and 18, all;
 Sec. 21, excluding Public Land Order 5164
 and Alaska Native Claims Settlement Act
 section 3(e) application F-21785;
 Secs. 22 and 23, excluding Public Land Order 5164;
 Secs. 24, 25 and 26, all;
 Sec. 27, excluding Public Land Order 5164;
 Secs. 35 and 36, all.

Containing approximately 16,821 acres.

T. 16 N., R. 16 E.

Sec. 1, excluding F-20518 (Tetlin Reserve);
 Secs. 11 and 12, excluding F-20518 (Tetlin Reserve) and
 Tanana River;

Sec. 13, excluding Tanana River and its interconnecting sloughs;
 Sec. 14, excluding F-20518 (Tetlin Reserve), Tanana River and its interconnecting sloughs;
 Secs. 15 and 22, excluding F-20518 (Tetlin Reserve), and Tanana River;
 Sec. 23, excluding F-20518 (Tetlin Reserve), Tanana River and its interconnecting sloughs;
 Sec. 24, excluding the interconnecting slough of the Tanana River;
 Secs. 25 and 26, excluding F-20518 (Tetlin Reserve).

Containing approximately 2,790 acres.

T. 16 N., R. 18 E.

Secs. 1 to 17, inclusive, all;
 Secs. 21 to 28, inclusive, all;
 Secs. 34, 35 and 36, all.

Containing approximately 17,834 acres.

T. 16 N., R. 20 E.

Secs. 1 to 36, inclusive, all.

Containing approximately 22,802 acres.

Aggregating approximately 115,009 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file F-21779-20, are reserved to the United States and subject to further regulation thereby:

- a. (EIN 2 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 16 N., R. 17 E., Copper River Meridian, southeasterly through Sec. 1, T. 15 N., R. 17 E., Copper River Meridian, to Sec. 6, T. 15 N., R. 18 E., Copper River Meridian, between public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

- b. (EIN 5 L, C5) An easement for an existing access trail fifty (50) feet in width from the Alaska Highway easterly to the south fork of the Ladue River drainage and public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- c. (EIN 14 L, C5) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway northerly to public lands in the Damundtali Lake area. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- d. (EIN 40 C4) An easement for a proposed access trail fifty (50) feet in width from Sec. 36, T. 16 N., R. 19 E., Copper River Meridian southeasterly to Sec. 6, T. 15 N., R. 20 E., Copper River Meridian, between public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.
- e. (EIN 41 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the navigable Tanana River throughout the selection area. Purpose is to provide for public use of waters having highly significant present recreational use.
- f. (EIN 47 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other land survey purposes is reserved, together with the right to do all things necessary in connection therewith.
- g. (EIN 49b K) An easement one hundred (100) feet in width for an existing road and utility line from Beaver Creek Radio Relay Site to the AFTAC site in Sec. 21, T. 15 N., R. 19 E., Copper River Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation Calista, et al. v. Andrus and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him; and
3. The terms and conditions of the agreement dated April 28, 1978, between the Secretary of the Interior, Doyon, Limited and Northway Natives Incorporated. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Doyon, Limited, serialized F-21779-20. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State office, 555 Cordova Street, Anchorage, Alaska 99501.

To date 411,859 acres of land, selected pursuant to section 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water body within the described land is considered to be navigable:

Tanana River and all of its interconnecting sloughs.

Enclosed are copies of current status plats showing lands approved for conveyance along with maps showing the easements to be reserved.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy

served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until JUL 28 1978, to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited
First and Hall Streets
Fairbanks, Alaska 99701

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. (See enclosed ASO Form 2650-4.)

/s/ Sue A. Wolf

Chief, Selections and
Leasable Minerals Section

Enclosures:
ASO Form 2650-4
Cy 43 CFR Part 4, Subpart J
Plats
Maps
Legend

cc:

Joint Federal-State Land Use
Planning Commission for Alaska
733 West Fourth Avenue
Anchorage, Alaska 99501
(w/maps)

State of Alaska
Division of Lands
323 East Fourth Avenue
Anchorage, Alaska 99501
(w/maps)

Northway Natives Incorporated
Box 441
Northway, Alaska 99764

DM-F (200)
(w/maps)

LBlack:cm 06/08/78

2652/75.4 (961
F-19155-20
F-21779-20

State Office
555 Cordova Street, Pouch 7-512
Anchorage, Alaska 99510

JB 4/23/76
4pm
6/23/78

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

JUN 26 1978

Doyon, Limited : F-19155-20
First and Hall Streets : Regional Selection
Fairbanks, Alaska 99701 :

Lands Proper for Regional Selection
Approved for Interim Conveyance

On April 2, 1975, Doyon, Limited filed selection application F-19155-20, as amended, under the provisions of Section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Section 11(a)(1) for the Native village of Northway. The application excluded several water bodies as being navigable. As these are considered nonnavigable and as Section 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township, these water bodies are considered selected.

As to the lands described below, selection application F-19155-20, as amended, submitted by Doyon, Limited pursuant to Section 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Section 12(c), aggregating approximately 7,490 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Section 14(e) of the Alaska Native Claims Settlement Act.

Copper River Meridian, Alaska (Unsurveyed)

✓ T. 13 N., R. 17 E.

Sec. 13, all;
 Sec. 23, excluding F-20518 (Tetlin Reserve);
 Secs. 24 and 25, all;
 Sec. 26, excluding F-20518 (Tetlin Reserve);
 Sec. 35, all.

Containing approximately 3,815 acres.

✓ T. 13 N., R. 19 E.

Sec. 4, all.

Containing approximately 640 acres.

✓ T. 15 N., R. 17 E.

Secs. 3 and 4, all;
 Sec. 5, excluding F-20518 (Tetlin Reserve);
 Sec. 9, all.

Containing approximately 2,410 acres.

✓ T. 15 N., R. 19 E.

Sec. 34, excluding Native allotment F-12947 Parcel B.

Containing approximately 625 acres.

Aggregating approximately 7,490 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

- ✓ 1. That Haines to Fairbanks pipeline right-of-way, F-010143, fifty (50) feet in width, and all appurtenances thereto, constructed by the United States through, over, or upon the land herein described and the right of the United States, its agents or employees, to maintain, operate, repair, or improve the same so long as needed or used for or by the United States.
2. Pursuant to Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V. 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file F-21779-20, are reserved to the United States and subject to further regulation thereby:

- a. (EIN 45 C4, D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of the Nabesna River from the Nabesna village site in Sec. 22, T. 14 N., R. 18 E., Copper River Meridian, upstream through selected lands to public lands. Purpose is to provide for public use of waters having highly significant present recreational use.
- b. (EIN 47 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other land survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation Calista, et al. v. Andrus and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him; and
3. The terms and conditions of the agreement dated April 28, 1978, between the Secretary of the Interior; Doyon, Limited; and Northway Natives Incorporated. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is

located in the Bureau of Land Management easement case file for Doyon, Limited, serialized F-21779-20. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

To date 419,349 acres of land, selected pursuant to Section 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

There are no inland water bodies considered to be navigable within the selected area.

Enclosed are copies of current status plats showing lands approved for conveyance along with maps showing the easements to be reserved.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until JUL 28 1978 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited
First and Hall Streets
Fairbanks, Alaska 99701

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. (See enclosed ASO Form 2650-4.)

/s/ Sue A. Wolf

Chief, Selections and Leasable
Minerals Section

Enclosures:

ASO Form 2650-4
Cy 43 CFR Part 4, Subpart J
Plats
Maps
Legend

cc:

Joint Federal-State Land Use
Planning Commission for Alaska
733 West Fourth Avenue
Anchorage, Alaska 99501
(w/maps)

State of Alaska
Division of Lands
323 East Fourth Avenue
Anchorage, Alaska 99501
(w/maps)

Northway Natives Incorporated
Box 441
Northway, Alaska 99764

DM-F (202)
(w/maps)

✓ F-010143 (2800)

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am

F-19155-20 (2652)
✓ F-21779-20 (75.4)
(961)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

AUG 04 1983

DECISION

Doyon, Limited : F-19155-20
Land Department : Regional Selection
Doyon Building :
201 First Avenue :
Fairbanks, Alaska 99701 :

Decision of June 26, 1978, Modified in Part
Decision of August 24, 1979, Modified in Part

On June 26, 1978, a Decision to Issue Conveyance (DIC) was issued to Doyon, Limited for lands selected in the vicinity of Northway. The DIC was published in the Federal Register (43 F.R. 28048-28049) on June 28, 1978. There were no inland water bodies considered to be navigable within the selected area.

The DIC was appealed to the Alaska Native Claims Appeal Board (ANCAB) (RLS 78-1) and on January 22, 1980, BLM was ordered to submit its basis for determining the waterbodies to be navigable or nonnavigable. BLM filed its Review and Basis for Navigability Determinations on March 28, 1980. Upon review, the Nabesna River and Fish Lake were determined to be navigable. On October 30, 1981, ANCAB issued a decision finding the Nabesna River and Fish Lake to be navigable. Therefore, the DIC dated June 26, 1978, is hereby modified by changing the second sentence in the first paragraph of the published decision on page 28048, column 3, to read, "The application excluded Nuziamundeho Lake as being navigable."

On page 28049, column 2, the paragraph stating, "There are no inland water bodies considered to be navigable within the selection area," is deleted.

The DIC of June 26, 1978, approved for conveyance the surface and subsurface estate of the beds of the Nabesna River and Fish Lake to Doyon, Limited. As these water bodies are now considered navigable, the submerged lands beneath them are not public lands and are not available for conveyance to the Native corporation under the Alaska Native Claims Settlement Act (43 CFR 2650.0-5(g)).

Therefore, the DIC of June 26, 1978, approving the submerged lands of the above-described water bodies for conveyance to Doyon, Limited, is hereby modified to exclude those lands. The approximate total acreage is changed from 122,499 acres to 121,414 acres.

Those water bodies determined to be navigable are identified on the attached navigability maps, the originals of which will be found in easement case file F-21779-20.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

On June 23, 1978 and June 26, 1978, DIC's were issued to Doyon, Limited and published in the Federal Register (43 F.R. 28048-28051) on June 28, 1978. These DIC's reserved easements which had not been conformed to the Departmental easement policy announced March 3, 1978. On December 20, 1978, ANCAB remanded the easements to BLM for determination in accordance with the new Departmental easement regulations.

Accordingly, a decision was issued to conform easements on August 24, 1979, and published in the Federal Register (44 F.R. 49795), the same date, in which the following easement was reserved:

(EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

On December 17, 1982, the Interior Board of Land Appeals modified easement EIN 14 C5, L to only allow "travel by foot, dogsled, [and] animals," Northway Natives, Inc., Doyon, Limited, 69 IBLA 219, 244 (1982). It now reads as follows:

(EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are travel by foot, dogsled and animals.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Except as modified by this decision, the decisions of June 26, 1978, and August 24, 1979, stand as written.

/s/ B. LaVollo Black
Section Chief, Branch of
ANCSA Adjudication

Enclosures:
Maps
Legend

cc:
State of Alaska (CM-RRR)
Department of Natural Resources
Division of Land and Water Management
Pouch 7-005
Anchorage, Alaska 99510
(w/maps)

Northway Natives Incorporated
Box 441
Northway, Alaska 99764
(w/maps)

DM-F (242)

DM-F (200)
(w/maps)

AM-Y (280)
(w/maps)

Chief, Branch of ANCSA Adjudication (961)

Chief, Branch of Easement Identification (963)
(w/maps)

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MMO 48*W



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

Ref 5-21-94

✓ Nabesna-GS-FY'94
Tanacross-GS-FY'94
F-17780 (2561)
F-013580 (2561)
F-024675 (2561)
F-43709 (2620)
F-79556 (2620)
F-79565 (2620)
F-88517 (2620)

May 24, 1994

Memorandum

To: File F-14912 (75.4)

From: Navigable Waters Specialist (924)

Subject: Interviews on Water Bodies on Lands in Window 1212 (Group Surveys 117 and 242)

December 10, 1993

I spoke with Daisy Northway's husband, **Harold Northway** (883-5768), at Tok, who said that yearly he takes his eighteen-foot boat (eighty horsepower Johnson jet unit) carrying three to four people, supplies, food, coolers, and moose totaling over 1,000 pounds from the Black Hills foothills to the mouth of **Moose Creek**. Abraham Albert accompanied him on some of the trips and he has also accompanied Albert in his eighteen-foot boat (sixty-horsepower motor). He has been making the trips for about thirty years. At low water, the creek is approximately three to four feet deep through Daisy's Native allotment and up to eight feet deep during high water. There are some deadfalls in the creek but they cause no problem as they cut them out. Approximately five miles upstream from the airport, the creek flows through swampland and the creek is about one foot deep. However, they still take the eighteen-foot loaded boats the same distance. They make the trips each spring, summer, and fall until freeze-up. He has taken loaded canoes all the way to the Black Hills.

Northway said that a lot of people including Teddy and Lee Northway, and Roy Sam, have carried a lot of moose on the creek. They also hunt ducks in the fall and fish in the summer this same distance. A lot of people used to use jet boats on the creek but the village outlawed it as too many people were using the creek. He recommended that I contact Roy

Sam (778-2207) as he lives by the creek. I can also contact Abraham Albert (Hm: 883-5307, Wk: State Department, Public Works, 883-5129) as he is a board member. Oscar Albert can be contacted through Norman Gallen (778-2231).

December 17, 1993

Robert Burritt, Supervisory Natural Resource Specialist, BLM, Tok (883-5121), stated that he is not familiar with the water bodies or with the Fairbanks Native allotments along the creeks in this area. I specifically asked him about those along **Moose Creek**. Burritt did not have any information about the other streams.

December 22, 1993

Norman Gallen (778-2231) from Tok stated that for years he has taken a fourteen-foot boat (ten-horsepower motor, prop) hunting muskrats and ducks from June through September up **Moose Creek** until freeze-up. He boats about two hours upstream beyond the airport. Gallen has taken three people (total) and a moose downstream. He also made the trip with a total of three people fishing. He said that the creek ranges from one to fifteen feet deep and is about thirty feet wide. He thought a canoe would be better to use when the water is low as it is easier to drag across the shallow areas. This is for about 100 yards. There are some beaver dams in the creek bed but he clears these out. One can make the trip every year in an eighteen-foot boat (forty-horsepower motor) carrying 1,000 pounds. He recommended that I contact Rosie Maher (Ada Issac's daughter) who is on the Board of Directors for Doyon Inc. (778-2226) as she works for the Native council and knows the creek. He also recommended that I contact Abraham Albert as he uses the creek constantly.

I contacted **Abraham Albert** at Tok (Wk: 883-5129) who stated that he has taken a sixteen-foot boat (forty-horsepower, prop) with a total of two people on **Moose Creek** to Fish Lakes (about fifteen miles above the airport) carrying a total of about 500 pounds. His uncle, Lee Northway, also took a sixteen-foot boat to Fish Lakes. The creek is about two feet deep in the summer and fall and five feet deep in the spring. The creek stays high for about one and one-half months in the spring. Last August when he boated up, it was about two feet deep. The creek has beaver dams but they cut them out or pull the boat over them. He believes that one can carry 1,000 pounds to Fish Lakes. He said that Jim Gallen (778-2204) took a sixteen-foot boat (jet unit) up the creek. He recommended that I call Northway Natives, Inc. (778-2298). He said that his sister Lorraine Titus who works for the Northway high school has boated on Moose Creek.

Roy Sam from Northway (778-2207), who has a Native allotment on **Moose Creek**, takes a sixteen-foot boat (prop) and another person and supplies, moose hunting on the creek. However, he has never gotten a moose. The total weight was about 500 pounds. He traveled beyond Fish Lakes. Near the airport the creek is approximately four to five feet deep in the summer. During spring runoff, the water is about fifteen feet deep and up to its banks. In the fall the creek is between two and four feet deep. He has seen people bring moose down

in boats from Fish Lakes by the Black Hills. Sam knows of a white man from another area that also uses a boat up to Fish Lakes. One can take a loaded boat to Fish Lakes any time of the year. However, one has to take it slow in the shallower areas in the fall. He recommended that I call William Albert (788-2312) from Northway for more information about the creek.

Rosie Maher (778-2226) from Northway said that she and her family took sixteen-foot boats with thirty-five-horsepower motors, and an eighteen-foot boat (fifty horsepower jet unit), up **Moose Creek** to several miles above the airport to hunt muskrat and moose. They took a fourteen-foot boat (nine-horsepower motor) up to Sharp Hill which is several hours above the airport near the foothills of Black Hills moose hunting. They usually carry four to six people, camping supplies, gas, and food, totaling about 800 pounds. The water up to the airport is about six to eight feet deep year-round. She stated that Howard Fix (778-2236) has a cabin at Sharp Hill and he boats to it. She has seen others boat upstream of the airport and believes that one can carry more than 1,000 pounds on the creek.

December 27, 1993

I contacted Rose Issac (883-5181) who is the Director of Tanana Chiefs in Tok. Rose gave me Sarah Gabriel and **Cora Demit's** telephone number (778-2217). Cora is Sarah Gabriel's daughter. A **tributary of the Charlieskin Creek** flows through Sarah's Native allotment. Cora said that her family takes boats about eighteen to twenty feet in length (thirty to forty-horsepower motors) from Moose Creek at the highway bridge onto an unnamed stream between Moose Creek and Sarah's Native allotment, then through the allotment, and onto Charlieskin Creek to hunt and fish. Her brother, Brady Jimmie, fishes, traps and hunts moose the same distance. She would not speak any longer as her grandmother was ill. Sarah Gabriel does not speak English. Also, because Sarah's mother was ill, Cora did not want to interpret for Sarah.

Rose also contacted **Brady Jimmie** at 778-2217. This is Cora's number in Northway. The family does not want Brady Jimmie to use their phone any more. Brady is Sarah Gabriel's son. Brady said that the family fishes, and hunts moose between Moose Creek at the highway bridge crossing, the lakes on a tributary of **Charlieskin Creek** which flows through Sarah's Native allotment, and then ascending Charlieskin to Dog Lake. I asked Brady if there were two streams through Sarah Jimmie's Native allotment in Sec. 21, T. 14 N., R. 19 E., Copper River Meridian, near the highway, and he said that there is only one meandering through the lakes west of the allotment and through it. The lakes are now grown in forming an island, however there is still a stream through where the lakes were. Brady said that he and his family (a total of seven people) took a sixteen- and twenty-five foot boat this distance. In a twenty-five-foot boat, he went about eight miles and carried two moose carcasses down to the stream's mouth. The water is about six feet deep in Sarah's Native allotment in the summer. In the spring it is deeper. Charlieskin Creek is shallower about four miles from its mouth in several areas for about one-half mile where one has to pull the boat part of this distance over tall grasses. He stated that his friend Winfred Mark (778-2311,

Village Council Office in Northway), also boats the same distance that he does. Brady said that the bridge over the unnamed stream that is shown in the field report photograph, is washed out.

Brady Jimmie said that he has also taken a sixteen-foot flat-bottomed boat (twenty-five-horsepower motor) up **Moose Creek** to Fish Lakes near the Black Hills foothills. The purpose of the trips was to hunt moose and muskrat. The boat held three people, food, gas, tents and tarps. He did not catch a moose. The creek averages three to four feet in the summer. It is higher in the spring. In the fall the water drops. One can boat carrying 1,000 pounds below the airport, however, it would be more difficult to do so upstream from the airport as one must paddle through tall grasses for about one mile.

Brady and another man canoed from the mouth of **Desper Creek** to about one mile east of the highway. They carried sleeping bags, tents, and food (supplies were about fifty pounds). The creek averages two feet deep with deeper holes. There are numerous beaver dams in the creek, however, they pulled the boat over them. He believes that one can carry a load of 1,000 pounds this distance. One can canoe the creek between spring and fall. There is a lot of boat and canoe use on the creek all the time from the creek's mouth to one mile east of the highway. He recommended that I contact Harold Northway about this creek.

Brady used a sixteen-foot boat on **Scottie Creek** through miles twelve and fourteen and into Canada. He stated that the creek is about three to four feet deep in the summer. Spring snowmelt causes the creek to be real deep.

Once, in the summer, **Brady** and two other men canoed **Little Scottie Creek** from the highway to the Canadian border. It is about four feet deep in the summer and deeper in the spring. It is lower in September. There is driftwood in the creek but people chop it out.

Brady walked to the unnamed left-bank tributary of **Little Scottie Creek** in the east half of Sec. 24, T. 10 N., R. 23 E., CRM. He said that one can carry 1,000 pounds on the creek any time that it is open. Brady said that I should contact Ben Albert (778-2229) as he has information on Desper, Scottie, Little Scottie, and the unnamed creeks.

December 28, 1993

I contacted **Rosie Maher** (778-2226) from Northway about her allotments along Dog Lake to see if she accessed them by **Charlieskin Creek**. As there is conflicting information in her file about the proper location and the survey of her parcel C at the southeast end of the lake, I asked her if the Charlieskin flows through it. She said that it does not. The creek borders her parcel. She stated that to get to her parcels on Dog Lake, they boat both Open and Charlieskin creeks.

Rosie said that approximately ten times at spring high water, she and her family have taken sixteen-foot boats with two people and camping supplies (about 500-600 pounds) to her parcel

at the southern end of Dog Lake. This can be done every year at high water. They boat from Moose Creek through the lakes, thence up the unnamed stream in Sarah Gabriel's Native allotment, thence up Charlieskin Creek to Dog Lake, and across Dog Lake to Rosie's parcel C allotment on Dog Lake. About one-half way to Dog Lake, there are mud flats which can't be boated during low water. Here they pull the boat through. They use an axe to cut the high banks in one area as the creek is narrow. They also chainsaw vegetation from the creek bed. The left-bank tributary of Charlieskin is generally about five feet deep and narrow. One can take 1,000 pounds through Sarah's Native allotment and to Dog Lake via Charlieskin Creek. This can be done at high water only.

When their family uses **Open Creek**, they take a sixteen-foot flat-bottomed riverboat, airboat, or canoe to Open Lake (about five miles upstream of Sarah Gabriel's Native allotment near Dog Lake) and walk about twenty minutes on a summer trail to her parcels. It takes about forty-five minutes by air boat to travel from the highway bridge to Open Lake. It is easier to take Open Creek than Charlieskin Creek as there is no muddy area through which they have to drag boats over. It is also easier to boat the creek during high water. It is hard to make the trip during low water. They pull the boats across about eighteen beaver dams. Open Creek is approximately two to five feet deep or deeper. They carried six people and a day's supply of food in the air boat to Open Lake (the first lake northeast of Dog Lake). One can take a moose and two people (about 1,000 pounds) in an air boat from Dog Lake. Rosie said that Marilyn Paul and her family use canoes and boats on the unnamed stream through Sarah Gabriel's Native allotment. She said that I should contact her husband, Terry, who also uses the creek.

January 19, 1994

Ben Albert (778-2256) at Northway said that he did not have any information on **Desper, Scottie and Little Scottie** creeks. He recommended that I contact **Teddy Northway (778-226)**.

I reached **Teddy Northway (778-2260)** who has walked along **Desper Creek** about two miles upstream from the bridge. The creek has a deep channel of about five feet in the summer and ten feet in the spring. It is about ten to fifteen feet wide. However, one would have to chainsaw some driftwood out of the stream to use a canoe or boat on it. Teddy knows **Tommy John** from Canada who canoes down the creek all the time. However, he lives in the bush most of the time and cannot be contacted. He stated that one can boat or canoe at least this distance and possibly farther with a load of about 1,000 pounds. He recommended that I contact **Jenny Sanford (291-2302)** who was raised in the **Desper and Scottie** creeks area. She now lives in **Mentasta**. Also, we can contact **Mary Tyone (451-6851)**, who was raised on **Scottie Creek**.

Teddy walked along **Scottie Creek** from the highway to the Canadian border. The creek is shallow--about three to five feet in the spring and summer and about two to three feet deep in the fall. He recalled a large beaver dam at the Canadian border. One can take a boat or canoe carrying a moose down the creek from the Canadian border to the bridge.

Teddy did not boat **Little Scottie Creek** east of the bridge, however, he walked on a trail along the creek. The creek has a good channel (three to five feet deep), however, there are trees and beaver dams in the creek bed. The creek runs through a culvert at the bridge. He does not believe that one can carry a loaded canoe or boat on the creek.

Harold Northway called and did not have any information about **Desper, Scottie, and Little Scottie** creeks east of the highway. He stated that they normally don't go east of the highway as it is too close to the Canadian border and they need permission to go there. He said that the John brothers from Canada know about these creeks. He will try and contact them for me.

January 24, 1994

Mary Tyone (451-6851) returned my call and said that she took a canoe a short distance on **Desper Creek** east of the bridge. **Mary** walked along **Scottie Creek** and also took a canoe on the creek east of the bridge. The creek has a lot of driftwood in it. **Mary** also took a canoe on **Little Scottie Creek**. She asked if the State would pay her to give this information about their land. I said that I worked for the Federal government and I did not know. She refused to give any more information about the creeks as she was only interested in her Native allotment.

January 25, 1994

I contacted **Huston Sanford, Jr.**, (291-2302) who stated that he took a seventeen-foot aluminum canoe on **Desper Creek** (he paddled and did not use a motor) about one mile east of the bridge. He has also used the trails along the creek to fish. He had to cut the beaver dams out all the way from the bridge. He had the canoe in the water about fifty percent of the time. It was difficult to tell how deep the creek was because of the beaver dams in the creek.

Huston walked along **Scottie Creek** east of the highway to the Canadian border and said that there was a lot of brush, beaver dams and tussocks in the creek. The creek is about three to four feet deep. One could carry a load of 1,000 pounds but it would be very difficult. He had no information about **Little Scottie Creek**. **Huston** said that his mother knew all about the creeks and she would contact me tomorrow.

January 27, 1994

Jenny Sanford (291-2302) has a Native allotment on **Desper Creek**. For thirty-three years she lived across from the Border City Trading Post where the creek flows under the highway. The family made numerous trips in ten-foot canvas canoes (two feet wide, which her ancestors and dad built) to Island Lake outlet where it joins **Desper Creek**, and downstream to the confluence of **Scottie** and **Desper** creeks. The canoe had three seats and when carrying a load as heavy as a moose, only one person would be in the canoe. Often they took three

people in the canoe to hunt and fish. They didn't take bigger canoes because they would have to pull them with a rope a few yards over deadfalls. Jenny stated that the creek is about four to five feet deep from spring to fall. Often she swam in the creek.

Jenny said that the family also used ten-foot canoes on **Scottie Creek** all the way to the Canadian border. In fact, her father "Little Johnnie," often carried supplies (at least 1,000 pounds) including winter supplies of dried meat and moose from as far into Canada as twenty-five miles. He also hunted muskrat and fished on the creek in a ten-foot canoe. The local people called him "White River Johnny." He died two years ago. There is a large beaver dam at the border, however, they pack the canoe over it. On many of the trips the family carried guns, fish nets, food, other supplies and two to three people. **Scottie** is deeper than **Desper** (four to five feet). They canoed the creek from the spring to the fall.

Jenny and her family also took the ten-foot canoe on **Little Scottie Creek** but they carried loaded canoes full of fish, food, fishnets and two to three people. The creek is about four feet deep and deeper in areas. She canoed from the bridge to the Canadian border from the spring to the fall. She believes that one can carry 1,000 loads on the creek.

Jenny recommended that I contact her older sister **Bessie John** (403-862-7505) and her cousin **Doris John** (403-862-7903) who lives in Canada. She thought that they had more experience using watercraft on the creek than she did.

January 31, 1994

Because Jenny recommended that I contact **Doris John** (403-862-7903), I called her about the creeks. She said that she was suspicious about the BLM questioning her and that she wanted to contact other people before she participated in any interview. I told her that she might want to talk to the people at the Tanana Chiefs Conference, Inc., as they are our contacts when interviewing the village people.

I received a call from **Paul May** at the Tanana Chiefs who said that **Doris** had contacted him. She didn't know if she should comment about the water bodies because people in the area had problems with the government about fishing rights. Also, they had problems in the past with government realty people. He thought that she might contact me and said that it would be all right to contact her in the mornings at 403-862-7712 and in the afternoons at 862-7250. I tried contacting **Doris** on February 3, but she was working.

February 1, 1994

Bessie John (403-862-7506), who lives in Canada, was raised near the border trading post on **Desper Creek**. She works on various Native committees in Toronto and Ontario. **Bessie** said that her dad built birch-bark canoes (about ten feet long) and each member of the family had their own canoe which they used for subsistence hunting, fishing and trapping. She stated that her grandparents and great grandparents also made and used the ten-foot canoes in this

area. She said that her dad did not use boats on the creeks because it would be too hard to haul the loaded boats over the fallen trees. The canoes held four people or one person and a moose. They traveled up the Desper to the mouth of the Island Lake outlet. Sometimes they hiked to the highway. Also they canoed to the lake from spring to fall hauling clothes, moose, dry meat and fish. In June and July the creek is over five feet deep; in the summer and fall it is about five feet deep. There were fewer beaver dams years ago than there are now.

Bessie said that **Scottie Creek** is bigger and deeper than Desper Creek. The creek is about five to six feet deep. Everyone in her family had canoes about ten feet long and have taken them into Canada, down to High Cache, and to the Chisana carrying moose and supplies. The canoes held four people. They also often travelled by canoe to visit Indian friends. One can carry 1,000 pounds on the creek.

Bessie and her family also used the ten-foot canoes on **Little Scottie Creek** to the Canadian border carrying fish, moose and other supplies. Like the other creeks, **Little Scottie** has beaver dams. There are so many dams now that she recommended to the government committees that they blow them up so the fish can use the creek easier. The creek is about four feet deep. Even though there are a lot of beaver dams, one can take a canoe with 1,000 pounds on the creek.

February 4, 1994

I contacted Doris John (Wk: 403-862-7712, Hm: 862-7903) who said that she had contacted the Tanana Chiefs Conference and agreed that it would be all right for her to give information to BLM about the waterbodies, however, she preferred that I talk to an elder, Andy Frank (778-2286), who grew up in the Scottie Creek area. She said that he might not understand what I needed, and that I should first contact his daughter, Cecilia Cerbon (778-2248), in Northway.

February 10, 1994

I contacted **Stephen John** (Doris John's husband) as I could not reach any of the people that Doris recommended that I call. He recommended that I talk with Tommy John who lives by the Canadian border. However, he does not have a phone. He also recommended that I contact Pat and Jackie Johnny (822-3795) in Glennallen.

In a telephone interview with **Pat Johnny** (822-3795) from Glennallen, he stated that he used to live near the Border Trading Post. He used homemade ten-foot birch-bark and canvas-covered canoes. The canvas was painted to tighten it up and then waterproofed. He and three other people took these canoes on **Scottie** and **Little Scottie** creeks east of the highway and into Canada. He used the canoes on **Desper Creek** from Island Lake outlet down to the Border Trading Post at the highway and on to High Cache. He carried a moose on all of these creeks. Pat also used a fourteen-foot aluminum canoe on the Desper, Scottie and the

Little Scottie creeks between spring and fall. On Scottie and Little Scottie creeks they carried moose (about 1,000 pounds) and two people in the canoe from Canada. Without the moose they usually carried three people. They like to use the canoes because they are light and can be easily pulled over or around trees. They also ax or chainsaw the trees out. This usually happens in the spring. They are in the canoe nearly all the way. **Scottie Creek** is more than five feet deep from spring to fall. Pat said that Little Scottie is four to five feet deep and somewhat sinuous. It shallows to about two feet in several places where it widens. At the Canadian border, it is extremely sinuous and one has to drag the canoe for about ten minutes. The trip can be made every year carrying a moose.

Pat also carried moose down Desper Creek to the Border Trading Post at the highway and on to High Cache. The Island Lake outlet is grown in and they have to pack the moose out to Desper Creek. They camp at Island Lake and dry the meat and cut out some of the bones so that it is not too heavy. They did not go farther north on Desper Creek than the outlet from Island Lake. The creek is from six to eight feet deep. There are some trees in the creek. There are also a few swampy areas which they pull the canoes around or through. I asked him about the small streams west of Island Lake and he said that they are too swampy to use canoes or boats on. He said that his brother Tommy and David Johnny also went with him on the trips. Tommy does not have a phone. David lives in Beaver Creek in Canada and he said that I should contact him through Martha or Julius Sam's (778-2208) in Northway. Julius Sam said to call David Johnny's sister-in-law (778-2263) for his telephone number.

May 12, 1994

I spoke with **Danny Grangaard** (883-2971) from ADF&G in Tok who said that he has taken a sixteen-foot jet and air boat (35-horsepower motor) and a seventeen and one-half-foot sports canoe (nine-horsepower motor) from the bridge on the **Desper** to the Island Lake outlet, muskrat and duck hunting, and fishing. He carries two people and supplies totaling 600 pounds. Sometimes he paddles the canoe. Numerous times he also took a sixteen-foot boat (thirty-five horsepower motor), carrying three people, gas, and camping supplies totaling about 1,000 pounds and an eighteen-foot boat (eighty-horsepower motor) totaling 1,200 pounds up to the highway on **Desper Creek**. Bud Burris and Dave Kellyhouse took a twenty-three-foot freighter canoe (9.9-horsepower motor) and supplies from the highway below the bridge to **Scotty Creek** and the lakes south of the confluence of **Desper** and **Scotty** creeks hunting. Grangaard said that David James, a man named Kenny, and one named Frank, boat the **Desper** every year from the highway to the lakes using boats the same size. He said that I should get the details from David James. Fish and Wildlife people use large boats below the bridge for duck-counting on the **Desper**. People boat from Northway to the bridge on **Scottie** and **Desper** creeks. There is a large culvert at the highway bridge.

A lot of people launch boats and canoes at the highway and **Desper Creek** and continue upstream to the Island Lake outlet. Some people use motors and some paddle canoes. Often they haul moose and pike out. It is about three to six feet deep up to the lake outlet and downstream of the bridge. The water does not get shallower upstream from the Island Lake

outlet. In the spring after rains or breakup, the creek is deeper for about one and one-half months. The Tanana backs up and causes Desper and Scottie creeks to remain high even during dryer periods in the summer. There are occasional beaver dams on the Desper. The number differs yearly depending on the rainfall. Now there is only one dam about two miles below the bridge. In general the creek is too deep for beavers to build dams. One can take a canoe or raft with a small motor carrying 1,000 pounds to the Island Lake outlet. He did not go farther upstream than the outlet as he had no reason to do so. However, he flew over the Desper through the State lands and said that one can take watercraft farther upstream from Island Lake outlet carrying a load, as there is plenty of water in the creek. He saw about four logs in the creek between the lake outlet and upstream through the State lands.

Grangaard canoes in a seventeen and one-half-foot canoe (nine-horsepower motor) with a minimal load of fishing poles and guns about two miles between the highway and Island Lake. He drags his canoe or uses a four-wheeler near the highway where the stream is dry. The remaining stream is about three feet deep. He canoes across the lake and then canoes down the Island Lake outlet stream to the Desper. Sometimes he drags the canoe a short distance over a swampy/grassy area. He canoes the same route going upstream from the Desper. In general the outlets are three feet deep. One cannot carry a load of 1,000 on the outlet streams of Island Lake.

Grangaard took a sixteen-foot airboat (thirty-five-horsepower motor) three times carrying 500-600 pounds on **Scotty Creek** from the bridge to Canada. He did not go oftener because of the U.S. Customs. He also took a seventeen and one-half-foot canoe and a fourteen-foot airboat (total of two people and supplies 800 pounds) between the bridge and the Canadian border. The Scotty is about six- eight feet deep above and below the bridge. One can carry loads of 1,000 pounds all the way into Canada.

Grangaard took a fourteen-foot airboat (about 40 horsepower motor), carrying about 400 pounds, on **Little Scotty Creek** from its mouth into Canada. The depth varies from one- to four feet. The creek is deep enough to carry a canoe or raft and a load of 1,000 pounds. There are a few small beaver dams but no major ones. I told him that one lady said that there were many beaver dams in Little Scotty. He said that she must have meant in Canada because there are very few in the U.S. He recommended that I contact David James (778-2274) in Northway, as he lived near the Scottie, Little Scottie and Desper creeks.

Dave Dapkus (883-5312) from the Tetlin National Refuge said that he has boated from the Chisana on to **Scottie Creek**, and up Scotty to the highway. People use "john" boats on Scottie and Desper creeks from the bridge to its mouth. Dapkus took a nineteen-foot canoe (five-horsepower motor) and also paddled with two people, tents and other supplies (600 pounds) from the bridge downstream on the Scotty. It is between three and five feet deep. People use canoes into Canada on the Scotty. There are a few logs in the creek.

I spoke with **Kathy O'Reilly Doyle**, a realty specialist at the BLM TOK Field Office (883-

5121). She used a sixteen-and one-half-foot canoe on **Desper Creek** downstream of the highway to its confluence with the **Scotty**. Total weight was about 450 pounds. She pulled the canoe over several beaver dams but they were no problem. She said that it was difficult to give a depth because the water was murky.

May 16, 1994

In a telephone conversation with **David James** (778-2274) in Northway, he stated that he has not used watercraft upstream of the highway on the **Desper and Scottie**. However, he said that his boys have done so. He said that he and his sons have taken twenty-foot freight canoes and river boats carrying 1,500 pounds on the **Desper and Scotty** the total distance downstream from the bridge. He said that the **Desper** is about eight feet deep below the bridge, with few short areas of about one-foot. The creek has several beaver ponds below the bridge. The **Scotty** is between ten and fifteen feet deep.

Nat Tideman



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
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Nabesna-GS-FY'94
Tanacross-GS-FY'94
F-17780 (2561)
F-013580 (2561)
F-024675 (2561)
F-43709 (2620)
F-79556 (2620)
F-79565 (2620)
F-88517 (2620)
F-14912 (75.4)

Det 6-24-94

June 24, 1994

Memorandum

To: Chief, Branch of Survey Preparation and Contracts (923)

From: Chief, Navigability Section (924)

Subject: Navigable Waters in Survey Window 1212 (Group Surveys 117 and 242)

This memorandum identifies navigable waters below the meanderable size in 48 townships comprising survey window 1212 (Northway). These water bodies are on lands selected under the Alaska Native Claims Settlement Act (ANCSA), the Statehood Act, or the Native Allotment Act, and not reserved at the time of statehood. In addition, the memo identifies navigable water bodies excluded from land conveyances under ANCSA or the Statehood Act.

The report area is located in the headwaters of the Tanana River in eastern Alaska. Besides the Tanana River, the principal rivers in the area are the Nabesna and Chisana rivers.

After researching the conveyance actions and considering the water bodies' physical character and the evidence of use, we identified the following water bodies (all below the meanderable size) in the report area as navigable:

1. Moose Creek to the unnamed lake in Secs. 21 and 28, T. 14 N., R. 19 E., CRM, and in Native allotments F-17780 and F-013580.
2. Mark Creek in T. 14 N., R. 19 E., CRM.

cc:

State of Alaska
Department of Natural Resources
Division of Land
State Interest Determinations Unit
P.O. Box 107005
Anchorage, Alaska 99510-7005

✓ State of Alaska
Department of Natural Resources
Division of Land
Title and Contract Section
3601 C Street, Suite 960
Anchorage, Alaska 99503

State of Alaska
Department of Natural Resources
Division of Water
P.O. Box 107005
Anchorage, Alaska 99510-7005

Doyon, Limited
Doyon Building
201 First Avenue
Fairbanks, Alaska 99701

Northway Natives Incorporated
P.O. Box 441
Northway, Alaska 99764

Tetlin National Wildlife Refuge
P.O. Box 779
Tok, Alaska 99780

U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503
Attn: Sharon Janis

Chief, Branch of Doyon/Northwest Adjudication (964)

Chief, Branch of Field Surveys (921)

Chief, Branch of Examination and Records (922/Attn: Records)

Chief, Mapping Section (924)

Appendix I

Navigable Waters Bodies Below the Meanderable Size on Lands
Selected under ANCSA, Alaska Statehood Act, or Native Allotment Act
in Survey Window 1212, Group Surveys 117 and 242 (Northway),
by Township

Copper River Meridian

Tps. 15-17 N., R. 16 E.

None.

Tps. 12-16 N., R. 17 E.

None.

Tps. 12-17 N., R. 18 E.

None.

Tps. 12-13 N., R. 19 E.

None.

T. 14 N., R. 19 E. (See Site Plot map.)

Moose Creek in Secs. 9 and 16 and to the lake in the SW $\frac{1}{4}$ of Sec. 21 and in Native allotments F-17780 and F-013580.

Mark Creek.

Tps. 15-17 N., R. 19 E.

None.

Tps. 12-13 N., R. 20 E.

None.

T. 14 N., R. 20 E.

Mark Creek.

Tps. 15-17 N., R. 20 E.

None.

Tps. 12-17 N., R. 21 E.

None.

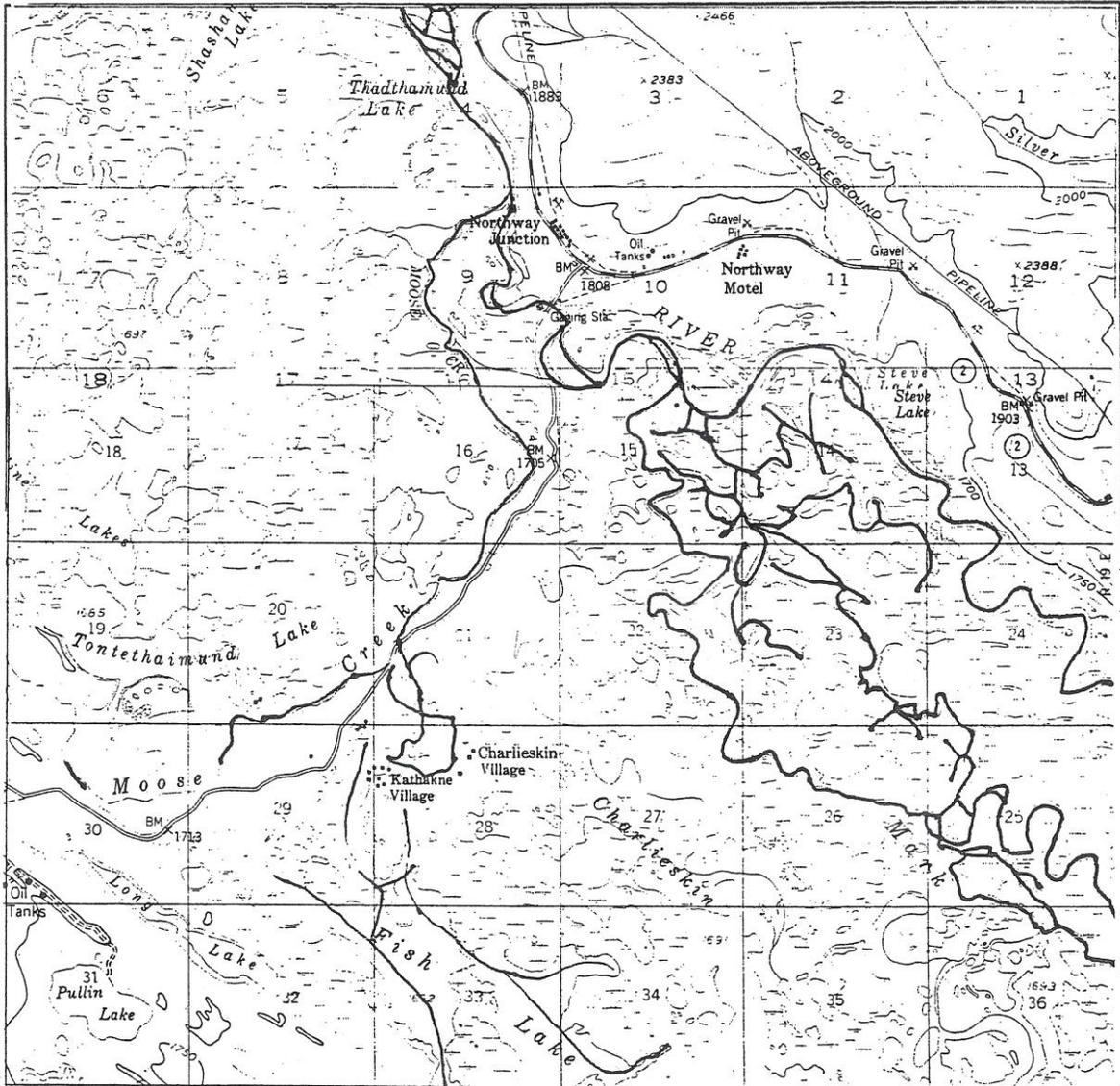
Tps. 10-11 N., R. 22 E.

None.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NAVIGABILITY MAP (PPP WINDOW 1212, Group Surveys 117 and 242 Nabesna)

T.14 N., R. 19 E., Copper River Meridian



SCALE: 1" = 1 Mile

USGS MAPS	AERIAL PHOTOS	ICs
Nabesna D-2, Tanacross A-2	CIR 60, roll 21, frame 410, July 1978	364, Secs.1-8, 13-36; 664, Secs. 9, 10; 964 Secs. 2, 4-36.

NAVIGABILITY REPORT: MOOSE CREEK
Window 1212; Group Surveys 117, 242

Local Name: Moose Creek

Nearest Settlement: Northway

Length of Water Body: 45 miles¹

Watershed: Chisana River

USGS Quadrangle: Nabesna D-2

Aerial Photo: CIR 60, roll 21, frame 410, July 1978

Was a determination made using Photo Interpretation?

Determination:

Date:

Was a Field Report/Interview Report created? Yes.²

SUBMERGED LAND STATUS

Township	Sections	Mile	Status and Remarks
14 N., 19 E. CRM	9	0-1	IC 664 Navigable
	16, 19, 20, 21, 29, 30.	1-6	IC 964 Navigable to the unnamed lake in the southwest quarter of Sec. 21
	19, 20, 29, 30	4-5	Native allotment F-013580 straddles creek
	NW¼ of 30	5	Native allotment F-17780 straddles creek
14 N., 18 E., CRM	24, 25, 35, 36	6-10	IC 964 Conveyed
13 N., 18 E., CRM		10-16	Not selected; Tetlin NWR
13 N., 19 E., CRM		16-20	IC 714 Conveyed

PHYSICAL CHARACTERISTICS:

Type of Water Body: Creek

Vegetation: Spruce and willows³

Bottom Characteristics: Unknown.

Bank Characteristics: The banks in the lower reaches are one to three feet higher than the water and are generally solid. The channel is straight.⁴

Velocity of Water Body: 2-3 mph⁵

Discharge Volume (max, min, mean): Unknown

Gradient: 2'-3' per mile⁶

Source	Channel Width (mile to mile)	Mile(s)
James F. Sizemore ⁷	50'-75'	0-3
James F. Sizemore ⁸	30'-50'	3 and upstream
CIR photo	30'	4-5
Ralph W. Wilson ⁹	13' near airstrip	4-5
Norman Gallen ¹⁰	30'	4-5

Source	Impediments (nature and location)	Mile(s)
Harold Northway ¹¹	Some deadfalls	
Brady Jimmy ¹²	Tall grass above airport for about 1 mile	8-9
Abraham Albert ¹³	Beaver dams	
Norman Gallen ¹⁴	Some beaver dams	

Pool/Riffle: Not available

Source	Depth (max, min, mean)	Mile(s)
James F. Sizemore ¹⁵	3'-5'	0-3
James F. Sizemore ¹⁶	2'-4'; 4'-5' in high water stages; 2'-3' lower water stages	3+

Ralph W. Wilson ¹⁷	3' in late July 1971	4-5
Harold Northway ¹⁸	Low water 3'-4'; high water 8'. swampland 1' deep	4-5 10
Brady Jimmy ¹⁹	3'-4' in summer, higher in spring, water drops in fall	4-5
Rosie Maher ²⁰	6'-8' up to airport year-round	4-5
Norman Gallen ²¹	1'-15'	0-10
Abraham Albert ²²	Spring 5', summer and fall 2'. High for about 1½ months in spring. August 1993, 2'.	4-5
Roy Sam ²³	Spring 15' and up to its banks, 4-5' summer near airport, fall 2'-4'	4-5

USES (who, what, why, when, where,how):

Commercial: None known

Historical:

Direct Evidence:

1. In 1975, Jerry W. McGee canoed Moose Creek and Fish Lake.²⁴
2. For 30 years, Harold Northway has taken 18' boats (80-hp Johnson jet unit), carrying 3-4 people, supplies, food, coolers, and moose (1,000 pounds) from Black Hills foothills to the creek's mouth from spring to fall. He also took loaded canoes the same distance. Sometimes Abraham Albert accompanied him. Harold accompanied Abraham in his 18' boat (60 hp motor). He boats the creek from spring to fall.²⁵
3. Brady Jimmy took a 16' flat-bottomed boat (25-hp motor) to Fish Lakes near Black Hills foothills to moose and muskrat hunt with 3 people and supplies.²⁶
4. Rosie Maher and her family have taken a 16' boat (35-hp motor) and an 18' boat (50-hp jet unit) to several miles above the airport to hunt muskrat and moose. They also took a 14' boat (9-hp motor) nearly to Black Hills moose hunting. They carry 4-6 people and supplies totaling 800 pounds. Rosie said that Howard Fix uses a boat on the creek. She has seen others use boats upstream of airport.²⁷

5. For years Norman Gallen has taken a 14' boat (10-hp motor, prop) hunting muskrat and ducks from June through September about 2 hours upstream beyond airport. He has taken 3 people and moose downstream.²⁸

6. Abraham Albert took a 16' boat (40-hp, prop) carrying 2 people to Fish Lakes (500 pounds). His uncle, Lee Northway, also took 16' boats to Fish Lakes. People cut the beaver dams out and pull boats over them.²⁹

7. Roy Sam has taken a 16' boat (prop) carrying 500 pounds to Fish Lakes moose hunting. He has seen people bring moose down in boats from this distance.³⁰

Indirect Evidence (i.e., cultural features such as trails, Native allotments, historic sites, etc.): The Northway road parallels the creek. Several Native allotments straddle and parallel the creek. A site for winter and spring fishing for burbot and pike is at the Moose Creek's mouth. A trail lies along the west side of Moose Creek which extends from the Chisana bridge to the mouth of Moose Creek. A trail also starts from a point on Moose Creek to Birch Lake and has been used by only one person for trapping purposes since the mid-1960s.³¹

Public Opinion (susceptibility to use):

1. Jerry W. McGee reported that motor boats are currently used up the creek as far as the Northway Airport where the creek crosses the Northway road. Using Kenneth Albert as his source of information, McGee reported that the creek is usable by canoe at any time of open water in Secs. 9, 16, and 21, T. 14 N., R. 19 E., CRM. Beyond this point the creek is useable by motor boats only during high water. Other than at high water, the creek is too shallow for motor boats. Jet boats, canoes, and motor boats have been used on the creek.³²

2. Kenneth P. Albert and several unidentified local natives noted that the creek was a travel route to the Chisana River before the Alaska Highway was constructed. It was also an alternate route to the Chisana when the Nabesna River was blocked by ice jams or when the river was too high or too low. The creek's lower reaches from Fish camp to the Chisana was, and is used, for fishing and trapping muskrats. Canoes can be used on the creek at any time. Recently, the creek has been used for recreational purposes.³³

3. In 1929, fur traders traveled to the spring camps near the lakes at mile 4 by motorboat.³⁴

4. Harold Northway said that numerous people including Teddy and Lee Northway and Roy Sam carry a lot of moose on the creek, duck hunting in the fall and fishing in the summer the same distance.³⁵

5. Norman Gallen believes that a canoe would be better when the water is low as it can be drug easier across the shallow areas. This is for about 100 yards. One can make the trip every year in an 18' boat (40-hp motor) carrying 1,000 pounds.³⁶

6. Brady Jimmie said that one can take 1,000 pounds below the airport, however, it is more difficult to do so above the airport as there are tall grasses for about one mile.³⁷
7. Abraham Albert said that Jim Gallen took a 16' boat (jet unit) up the creek. He believes one can carry 1,000 pounds to Fish Lakes.³⁸
8. Roy Sam said that one can carry a loaded boat to Fish Lakes any time of the year, however, one has to take it slow in the shallower areas in the fall.³⁹
9. Rosie Maher believes one can take 1,000 pounds on the creek. She said that Howard Fix has a cabin far above the airport at Sharp Hill and he boats to it. Others boat upstream of the airport and she believes that one can carry 1,00 pounds on the creek.⁴⁰

CONCLUSION (Gulkana River Standard)
(at least three facts should support conclusion)

Navigable (explain): I find Moose Creek navigable in Native allotments F-17780 and F-013580 between miles 4 and 5. Local residents (Harold Northway, Abraham Albert, Rosie Maher family) have taken 18' boats carrying maximum weight through the Native allotments. In general, the creek averages about 30' in width and 3'-8' in depth. This is sufficient for the transportation of commercial loads.

Nonnavigable (explain):

Report Prepared By: Dot Tideman Date: 6-22-94

Notes

1. Orth 1967, 655.
2. Dot Tideman to File F-14912 (75.4), May 24, 1994.
3. Ralph W. Wilson, "Field Notes of U.S. Survey No. 5094," October 17, 1974.
4. James F. Sizemore to State Director, March 22, 1979, file F-14912-EE, ANCSA files.
5. Ibid.
6. USGS Tanacross A-2 and Nabesna D-2 quadrangle maps, 1955.
7. James F. Sizemore to State Director, March 22, 1979, file F-14912-EE, ANCSA files.
8. Ibid.
9. Ralph W. Wilson, "Field Notes of U.S. Survey No. 5094," October 17, 1974.
10. Tideman 1994, 2.
11. Tideman 1994, 1.
12. Tideman 1994, 4.
13. Tideman, 1994, 2.
14. Ibid.
15. See p. 6, James F. Sizemore to State Director, March 22, 1979, file F-14912-EE, ANCSA files.
16. Ibid.
17. Ralph W. Wilson, "Field Notes of U.S. Survey No. 5094," October 17, 1974.
18. Tideman 1994, 1.
19. Tideman 1994, 4.
20. Tideman 1994, 3.
21. Tideman 1994, 2.
22. Ibid.

23. Ibid.
24. Sizemore 1979, 17.
25. Tideman 1994, 1.
26. Tideman 1994, 4.
27. Tideman 1994, 3.
28. Tideman 1994, 2.
29. Ibid.
30. Ibid.
31. Sizemore 1979, 17.
32. Ibid.; Jerry W. McGee, "Navigability Investigation Report on Moose Creek Affecting Northway Natives, Inc., Selections F-14912A," September 9, 1975, file F-14912-EE.
33. Ibid.
34. Robert W. Arndorfer to State Director, Alaska, March 28, 1980, file F-14912 (75.4), ANCSA selection files.
35. Tideman 1994, 1.
36. Tideman 1994, 2.
37. Tideman 1994, 4.
38. Tideman 1994, 2.
39. Tideman 1994, 3.
40. Tideman 1994, 2.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

✓ F-14912
Nabesna-GS-FY'94
F-024675 (2561)

August 25, 1994

Memorandum

To: File F-88517 (2620)

From: Navigable Water Specialists (924)

Subject: Additional Navigable Waters in Survey Window 1212 (Group Surveys 117 and 242)(Report dated June 24, 1994)

On August 4th, I left Anchorage at 7 a.m. and Jack Frost and I left Peters Creek by car at 8 a.m. for Tok. We arrived at Tok at 3 p.m. We stopped at the Fish and Wild Life Service (Tetlin National Wildlife Refuge) and met with Dave Dapkus who loaned us a light-weight fifteen-foot canoe. Dave introduced us to Susan Matthew who is the Tetlin National Refuge manager. Dave also indicated that he thought we would have a difficult time going up the Desper Creek due to log jams.

In addition, we also stopped at the Department of Fish and Game and met Dan Grangaard who would be accompanying us on the trips. We felt that his knowledge and experience in the region would benefit us.

As it was still light, Jack and I took the canoe and headed for the left-bank tributary of Charlieskin Creek. We spent several hours there and then continued to Charlieskin Creek, and then back to the hotel at 10 p.m.

Because the canoe was exceptionally light and tipped constantly and the motor did not work properly on the canoe, we took the canoe back to Fish and Wildlife Service and exchanged it for a sturdier fifteen-foot Grumman sport canoe. On Friday, Dan, Jack and I visited Desper, Scottie, Little Scottie, the right-bank tributary of the Little Scottie Creek in the E $\frac{1}{2}$ of Sec. 24, T. 10 N., R. 23 E., CRM, and the two small lakes which Scottie Creek flows through. As we had time, we also revisited the left-bank tributary of Charlieskin Creek up to its confluence with Charlieskin Creek, with Dan Grangaard.

According to Grangaard, there is a twenty-five year drought in the report area and the streams and lakes are exceptionally low in Tps. 10 and 11 N., R. 23 E., CRM. We measured all of the streams with a 7' poling pole. Photos taken on August 5th, of all the streams are attached.

Scottie Creek

On Scottie Creek, we headed upstream from the Alaska Highway in the fifteen-foot canoe with a 6-horsepower motor to the Canadian border. The Scottie is 7' deep (or more) all the way. It is 50-70 feet wide. Some of the bends are 150' wide. We shut the motor off and pulled the canoe over the first spruce tree and powered and poled it over the next three. The banks of the creek are covered with spruce, willow and birch. (Photos 1-12.) We believe that the creek is navigable from the Highway bridge to Canada. It is deep and wide enough to support commercial craft.

Little Scottie Creek to the Canadian Border and Lakes in the SE $\frac{1}{4}$ of Sec. 24, T. 10 N., R. 23 E., CRM and in the NE $\frac{1}{4}$ of Sec. 25, T. 10 N., R. 23 E., CRM

We headed up Little Scottie Creek about $\frac{1}{2}$ mile and then up the right-bank tributary of Little Scottie Creek. We canoed back down the tributary and continued up Little Scottie to the lake at the highway. Jack got out and walked back to get the truck. Grangaard and I completed the field report to the Canadian Border. Even though there is a twenty-five year drought this year in this area, the creek remains 7 feet deep at its confluence with the Scottie, swallowing to 2-4 feet from there through the two small lakes and to the highway. According to Grangaard, the creek is 4-5 feet deep when there is no drought. The stream remained about 15' wide it's entire distance. Small birch trees line the banks, however, when they were in the way, we motored over them. Once, we hit grass about one-half way between the tributary and the lake at the highway, however, we cleared the grass from the motor and continued on. The lower reaches of the creek and the lakes were filled with pike. (Photos 13-22.) We find the entire creek navigable to the Canadian border. Even in a drought, three people carrying supplies easily canoed this distance without difficulty. The entire creek is deep and wide enough to support commercial craft.

Right-Bank Tributary of Little Scottie Creek in the NE $\frac{1}{4}$ of Sec. 24, T. 10 N., R. 23 E., CRM

We headed up Little Scottie Creek to the left-bank tributary in the NE $\frac{1}{4}$ of Sec. 24, T. 10 N., R. 23 E., CRM, then up the tributary and several miles into Canada. The tributary's depth and width remained the same for this distance (approximately 7' deep and 15' wide). Willow and soft birch lined the banks. It was easy to travel because there were no large trees in the stream. (Photos 23-29.) We find this tributary navigable to the Canadian border. Three people carrying supplies navigated this distance without difficulty. It is definitely suitable to carry commercial craft this distance.

Left-bank Tributary of Charlieskin Creek in Native Allotment F-024675 in Secs. 21 and 28, T. 14 N., R. 19 E., CRM

Dan, Jack, and I canoed from the highway bridge through the lakes between the highway and Charlieskin Village on to the westernmost stream through Native Allotment F-024675 and on to Charlieskin Creek. Grangaard clarified his earlier statement about which lake was dried up and that it was not the lakes west of Charlieskin but the long lake south of Charlieskin Village in Secs. 27 and 28. The water was extremely high because the Nabesna Glacier is melting causing the Nabesna and Chisana rivers to be high and then backing up into Moose and Charlieskin creeks and the lakes. The westernmost stream is difficult to find because of the high water and flooding. Tall grasses grow in the stream bed and along the stream's banks. The portion of land north of Charlieskin village and southeast of the allotment is not land as shown on the USGS maps but is a 100' wide stream which runs into a large lake northeast of the allotment. (Photos 43-50). We believe that this stream is navigable. We easily canoed through the Native allotment to Charlieskin Creek. The stream is deep and wide enough to support commercial craft.

The westernmost stream's main channel is at least 7 feet deep. Grangaard said that it is up to 10-15 feet deep. There were minimal sweepers in the stream.

Easternmost stream from Charlieskin village in Native allotment F-024675 in Sec. 28, T. 14 N., R. 19 E., CRM

The quarter-mile stream which is shown on USGS Nabesna D-2 map as joining the westernmost stream through the allotment is about 50 feet wide and has logs and stumps in it. We looked for the confluence of it and the westernmost stream but there were no streams joining the westernmost stream. (Photos 51-54). We made several attempts to get into the stream but found it difficult to get beyond its mouth because of the logs and stumps. This stream is not suitable for commercial craft.

Desper Creek

We drove to the highway bridge and near Border City Trading Post and put the canoe in at the bridge on Desper Creek. We started up the Desper and found the first spruce logs across the creek about 200 yards above the bridge. Grangaard said that no one had used the creek in a long time. We tried to get into the lake in the E½ of Sec. 1, T. 10 N., R. 23 E., CRM, but the stream was filled with logs and spruce. We headed back to the main stream of the Desper and proceeded upstream, however, the logs in the creek increased and the brush became thicker until it was not worth fighting. We went as far as the left-bank tributary in Sec. 2, T. 10 N., R. 23 E., CRM and turned back. The creek remained about 4-7 feet deep for as far as we could see. It ranges from 15-30 feet wide. Grangaard said that once one gets through this part of the creek, it is clearer of trees and canoeable to the lake outlet stream. (Photos 30-42.) We find Desper Creek nonnavigable for commercial craft. We fought log jams and thick brush the entire distance. Navigation is nearly impossible.

We got back to Tok at 5:30 p.m. and returned the canoe and supplies to Fish and Wildlife Service. We left Tok at 6:20 p.m. We arrived in Peters Creek at 1:00 a.m., and in Anchorage at 2:00 a.m.

/s/ Dot Tideman

/s/ Jack Frost

Attachment
Photos

924:DTideman/JFrost:an:8/29/94:x3611:TRIP.RPT



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

Nabesna-GS-FY'94
F-024675 (2561)
F-43709 (2620)
F-88517 (2620)
F-14912 (75.4)

9-25-11:13

SEP 22 1994

Memorandum

To: Chief, Branch of Survey Preparation and Contracts (923)

From: Chief, Navigability Section (924)

Subject: Additional Navigable Waters in Survey Window 1212 (Group Surveys 117 and 242)

This memorandum identifies additional navigable waters below the meanderable size in three townships in survey window 1212 (Northway). The memo is a supplement to the June 24, 1994 report for this window. These water bodies are on lands selected under the Alaska Native Claims Settlement Act (ANCSA), the Statehood Act, or the Native Allotment Act, and not reserved at the time of statehood. In addition, the memo identifies navigable water bodies excluded from land conveyances under ANCSA or the Statehood Act in the three townships.

The report area is located in the headwaters of the Tanana River in eastern Alaska. Besides the Tanana River, the principal rivers in the area are the Nabesna and Chisana rivers.

After researching the conveyance actions and considering the water bodies' physical character and the evidence of use, we identified the additional following water bodies (all below the meanderable size) in the report area as navigable:

1. Scottie Creek east of the Alaska Highway in Sec. 13 and 24, T. 10 N., R. 23 E., CRM.
2. Little Scottie Creek in Secs. 24 and 25, T. 10 N., R. 23 E., CRM and the two lakes it flows through.

3. Right-bank tributary of Little Scottie Creek in E½ of Sec. 24, T. 10 N., R. 23 E., CRM.

4. Left-bank tributary of Charlieskin Creek (westernmost mouth) in Native allotment F-024675 in Secs. 21 and 28, T. 14 N., R. 19 E., CRM.

The navigable water bodies are described on a township-by-township basis in Appendix I. Lakes and streams previously determined navigable that are difficult to describe, are shown on the attached site plot map.

In addition, we field-inspected Desper Creek and found it nonnavigable. The creek was clogged with spruce, alder and birch.

We also inspected the easternmost stream from Charlieskin village in Native allotment F-024675 in the NE¼ of Sec. 28 and found it to be nonnavigable. It is filled with deadfalls and tree stumps, and it does not connect with the left-bank tributary as shown on the USGS Nabesna D-2 quadrangle map.

We did not consider the navigability of water bodies above the meanderable size. These include lakes and the Tanana, Chisana, and Nabesna rivers. Nevertheless, it should be noted that these rivers and some lakes were classified as navigable at the time of conveyances to the State and Native corporations.

We also did not consider the navigability of water bodies on interim conveyed lands. The village and regional corporations in this area decided against navigability redeterminations. Therefore, as far as water bodies below the meanderable size are concerned, only those that were excluded from interim conveyances or tentative approvals should be meandered and segregated from the survey of interim conveyed uplands.

Water bodies below the meanderable size that are not listed in Appendix I are non-navigable. The streams and creeks are too shallow, steep, or narrow for commercial navigation. The lakes are too small for commercial navigation. These water bodies should not be meandered and segregated from the survey of uplands.

C. Michael Brown

Attachments (3)

- 1 - Appendix I
- 2 - USGS Quadrangle Maps
- 3 - Bibliography

cc:

State of Alaska
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Tetlin National Wildlife Refuge
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Alaska Department of Fish and Game
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Tok, Alaska 99780-0355
Attn: Dan Grangaard

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17th District
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Attn: Jim Helfinstine
w/report on Scottie Creek

U.S. Fish and Wildlife Service
1011 East Tudor Road
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Attn: Sharon Janis

Chief, Branch of Doyon/Northwest Adjudication (964)

Chief, Branch of Field Surveys (921)

Chief, Branch of Examination and Records (922/Attn: Records)

Chief, Mapping Section (924)

Chief, Platting Section (924)

Chief, Special Instructions Section (925)

Chief, GCDB Section (923)

DM (080)

Tok Field Office (085)

Appendix I

Additional Navigable Waters Bodies Below the Meanderable Size on Lands
Selected under ANCSA, Alaska Statehood Act, or Native Allotment Act
in Survey Window 1212, Group Surveys 117 and 242 (Northway),
by Township

Copper River MeridianT. 14 N., R. 19 E. (In Native allotment F-024675)

Left-bank tributary of Charlieskin Creek in Secs. 21 and 28 (westernmost mouth). (See Site Plot map.)

T. 10 N., R. 23 E.

Scottie Creek east of the Alaska Highway. Little Scottie Creek from its mouth to the Canadian border and the two lakes it passes through in the SE $\frac{1}{4}$ of Sec. 24 and the NE $\frac{1}{4}$ of Sec. 25. Right-bank tributary of Little Scottie Creek in the NE $\frac{1}{4}$ of Sec. 24. (See Site Plot Map.)

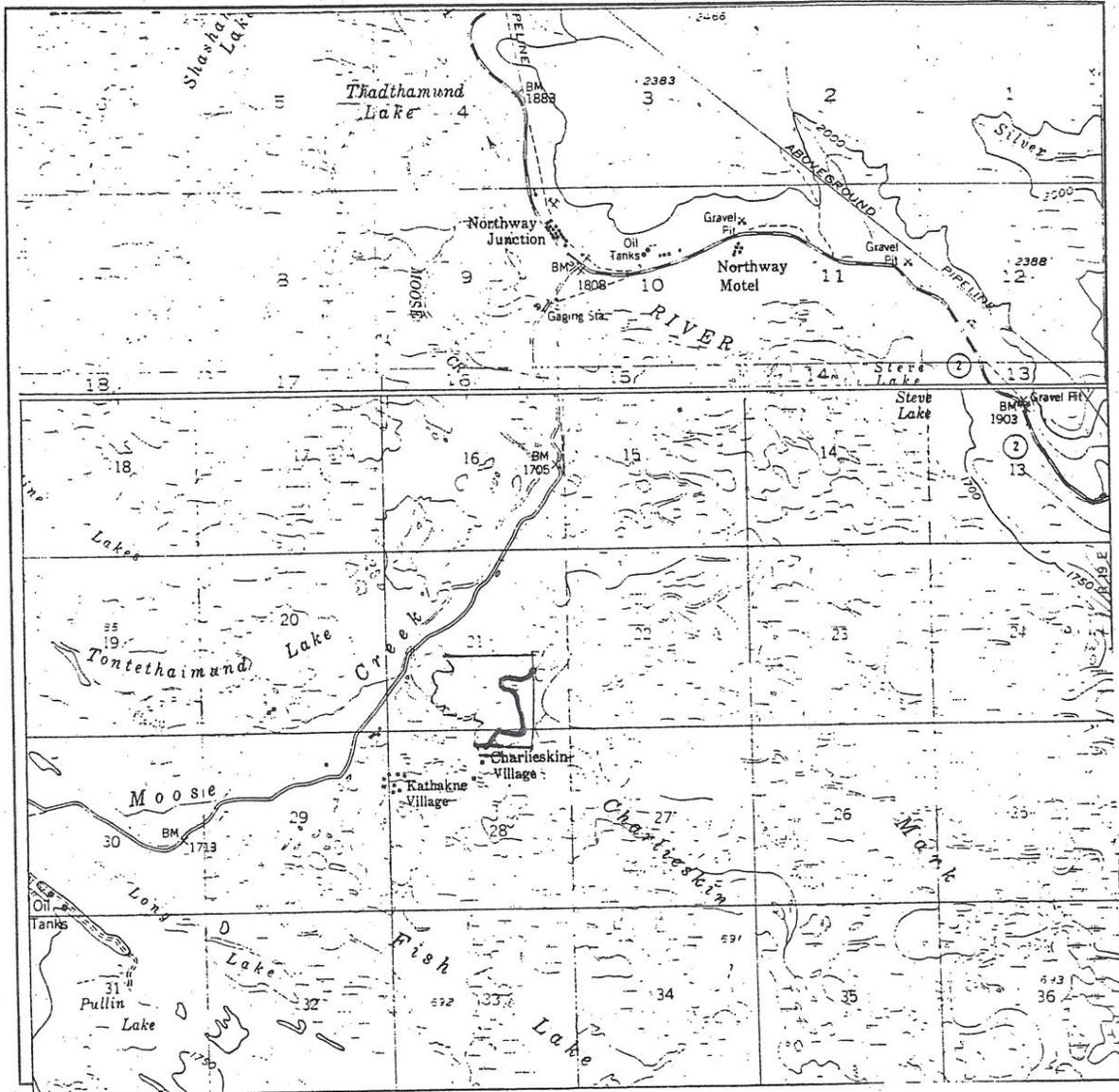
T. 11 N., R. 23 E.

None.

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT

NAVIGABILITY MAP (PPP WINDOW 1212, Northway)

T. 14 N., R. 19 E., CRM



SCALE: 1" = 1 Mile

USGS MAPS	AERIAL PHOTOS	STATUS
Nabesna D-2 Tanacross A-2	CIR 60, roll 21, frame 410, July 1978	Native allotment F-024675

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT

NAVIGABILITY MAP (PPP WINDOW 1212, Northway)

T. 10 N., R. 23 E., CRM



SCALE: 1" = 1 Mile

USGS MAPS	AERIAL PHOTOS	STATUS
Nabesna C-1	CIR 60, roll 21, frame 410, July 1978	State Selection F-88517

**NAVIGABILITY REPORT: LEFT-BANK TRIBUTARY OF CHARLIESKIN CREEK
IN NATIVE ALLOTMENT F-024675 IN SECS. 21 AND 28,
T. 14 N., R. 19 E., CRM
Window 1212; Group Surveys 117 and 242**

BACKGROUND INFORMATION

Local Name: None

Nearest Settlement: Northway

Length of Water Body: 1 mile¹

Watershed: Chisana River

USGS Quadrangle in selected area: Nabesna D-2

Aerial Photo in selected area: CIR 60, roll 21, frame 410, July 1978

Was a determination made using Photo Interpretation? No.
Determination: _____ Date: _____

Was a Field Report/Interview Report created? Yes²

SUBMERGED LAND STATUS

Township	Section Number	Mile	Status and Remarks
14 N., 19 E., CRM	Secs. 21 and 28	0-1	Native allotment F-024675 straddles creek
	Secs. 21 and 28	0-1	IC 964; Conveyed

PHYSICAL CHARACTERISTICS

Type of Water Body: Stream

Vegetation: Unknown

Water Body Bottom Characteristics: Unknown

Velocity of Water Body: Unknown

Discharge Volume (max, min, mean): Unknown

Gradient: < 1' per mile

Channel Width (mile to mile; max min, mean): Not available

Source	Bank-to-Bank Width	Mile
CIR: 60, roll 21, frame 410, July 1978 ³	Less than 15' wide	0-1
Rosie Maher ⁴	Narrow	0-1
Jack Frost, Dot Tideman, Dan Grangaard ⁵	50'	0-1

Source	Impediments (nature and location) Mile 0-1	Mile
Jack Frost, Dot Tideman, Dan Grangaard ⁶	Tall grass in creek bed and along banks	0-1

Pool/Riffle: Not available

Source	Depth (ft)	Mile
Brady Jimmie ⁷	6' deep in the Native allotment in the summer--deeper in the spring	0-1
Rosie Maher ⁸	5'	0-1
Jack Frost, Dot Tideman, Dan Grangaard ⁹	7-15'; presently higher because Nabesna Glacier is backing up causing the Nabesna and Chisana rivers to be high and backing into Moose and Charlieskin creeks	0-1

Other: None

USES

Commercial: None known

Historical:

Direct Evidence:

1. Cora Demit and her family take 18'-20' boats (35-hp. motor) from Moose Creek at the highway bridge, onto an unnamed stream between Moose Creek and Sarah Gabriel's Native allotment, then through the allotment, and onto Charlieskin Creek to hunt and fish.¹⁰
2. Brady Jimmie and his family of 7 take 16' and 25' boats from Moose Creek at the highway through a stream which was once the lakes west of the highway, through Sarah Gabriel's Native allotment and up Charlieskin to Dog Lake. In a 25'-boat, he went about 8 miles and carried 2 moose carcasses down to the creek's mouth.¹¹
3. Rosie Maher and her family took 16' boats with 2 people and camping supplies (500-600 pounds) from Moose Creek through the lakes west of Sarah (Jimmie) Gabriel's Native allotment, through the allotment, and up Charlieskin Creek to her parcel at the southern end of Dog Lake. She has made this trip approximately 10 times. This can be done every year at high water.¹²
4. Jack Frost, Dot Tideman, and Dan Grangaard took a 15' sports canoe (6 hp motor, prop) from Moose Creek at the Alaska Highway bridge, up the left-bank tributary to Charlieskin Creek, carrying about 700 pounds during a 25 year drought.

Indirect Evidence (i.e., cultural features such as trails, Native allotments, historic site, etc.): A trail passes through the Native allotment joining several lakes. Photos #12 and 13 in Gabriel's case file show a stream near the cabin. Photo #12 shows a bridge over a stream near the cabin.¹³

Public Opinion:

1. Brady Jimmy stated that his friend Winfred Mark also boats through Sarah's Native allotment to Charlieskin.¹⁴
2. Rosie Maher said that one can take a boat carrying a load of about 1,000 pounds through Sarah's Native allotment in Secs. 21 and 28, T. 14 N., R. 19 E., CRM, but not all the way on Charlieskin Creek to her parcel C, except at high water. Marilyn Paul and her family from Northway use canoes and boats on the unnamed stream.¹⁵

CONCLUSION (Gulkana River Standard)
(at least three facts should support conclusion)

Navigable (explain):

I find the left-bank tributary of Charlieskin Creek in Native allotment F-024765 in Secs. 21

and 28, T. 14 N., R. 19 E., CRM, navigable. In an August 1994 field examination, three people took a 15' canoe (6 hp motor, lift) on the stream, carrying a load as far as Charlieskin Creek. Local residents also use loaded canoes and boats on the stream to transport people and goods for the purpose of hunting and fishing. The stream is approximately five to seven feet deep, which is deep enough for commercial transportation.

Report Prepared By: Dot Tideman

Date: 9/20/94

Nonnavigable (explain):

Notes

1. USGS Nabesna D-2 Quadrangle Map.
2. Dot Tideman to File F-14912 (75.4), May 24, 1994. Dot Tideman and Jack Frost to File F-88517 2620), August 25, 1994.
3. CIR 60, roll 21, frame 410, July 1978.
4. Tideman May 1994, 5.
5. Dot Tideman and Jack Frost to File F-88517 (2620), August 25, 1994.
6. Ibid.
7. Tideman May 1994, 3.
8. Tideman May 1994, 5.
9. Dot Tideman and Jack Frost to File F-88517 (2620), August 25, 1994.
10. Tideman May 1994, 3.
11. Ibid.
12. Tideman May 1994, 4, 5.
13. Leslie Greenfield, Land Report, August 4, 1977, file F-024675, Native allotment files.
14. Tideman May 1994, 3, 4.
15. Tideman May 1994, 5.