



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Alaska State Office
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Anchorage, Alaska 99513-7504
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In Reply Refer To:
AKAK106418981
AKAA-95490 (1864)
(9414)

June 4, 2026

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RETURN RECEIPT REQUESTED

DECISION

State of Alaska : AKAK106418981
Department of Natural Resources : Application for a Recordable Disclaimer of
Division of Mining, Land, and Water : Interest
Public Access Assertion and Defense Unit : Delta River, Tangle River, and Tangle
550 West Seventh Avenue, Suite 1070 : Lakes
Anchorage, Alaska 99501-3579 :

APPLICATION APPROVED

I. Summary

On June 12, 2019, the State of Alaska (State) finalized application AKAK106418981 with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest (RDI) pursuant to section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the regulations contained in 43 CFR Subpart 1864 for certain lands underlying the Delta River, Tangle River, and Tangle Lakes located south of Delta Junction, Alaska (Map 1, Map 2, and Map 3).^{1,2}

The RDI application was submitted for the submerged lands as follows:

- 1) Delta River: All submerged lands between the ordinary high-water marks (OHWMs) of the left and right banks of the Delta River beginning at the southern boundary of Fort Greely in secs. 24 and 25, T. 14 S., R. 9 E., Fairbanks Meridian,

¹ FLPMA of 1976, Disclaimer of interest in lands, 43 U.S.C. § 1745.

² Letter from James H. Walker, Chief, DNR, Public Access and Defense Unit, to Angela Nichols, BLM, RDI Program Manager, June 12, 2019, BLM records, Anchorage, AK.

Alaska (F.M.), and secs. 19 and 30, T. 14 S., R. 10 E., F.M., upstream to the Tangle River within sec. 25, T. 20 S., R. 9 E., F.M.;

2) Tangle River: All submerged lands between the OHWMs of the left and right banks of the Tangle River beginning within sec. 25, T. 20 S., R. 9 E., F.M., upstream to the inlet of Tangle Lake within sec. 8, T. 22 S., R. 9 E., F.M., including;

3) Tangle Lakes: All submerged lands between the OHWMs of the Tangle Lakes; including Lower Tangle Lake, Long Tangle Lake, Round Tangle Lake, Tangle Lakes and Upper Tangle Lake.

The State's application asserts that the waterbodies were navigable in fact on the date of Alaska's statehood, January 3, 1959.³ As such, the application contends that ownership of the submerged lands underlying those portions of the Delta River, Tangle River, and Tangle Lakes automatically passed from the United States to the State upon the date of statehood under the Alaska Statehood Act,⁴ the Equal Footing Doctrine,⁵ the Submerged Lands Act (SLA) of 1953,⁶ the Submerged Lands Act of 1988,⁷ and other title navigability laws.

The BLM has determined that the preponderance of evidence demonstrates that those portions of Delta River, Tangle River, and Tangle Lakes in the application were navigable at the time of Alaska's statehood. The State's application is therefore **APPROVED** as described below.

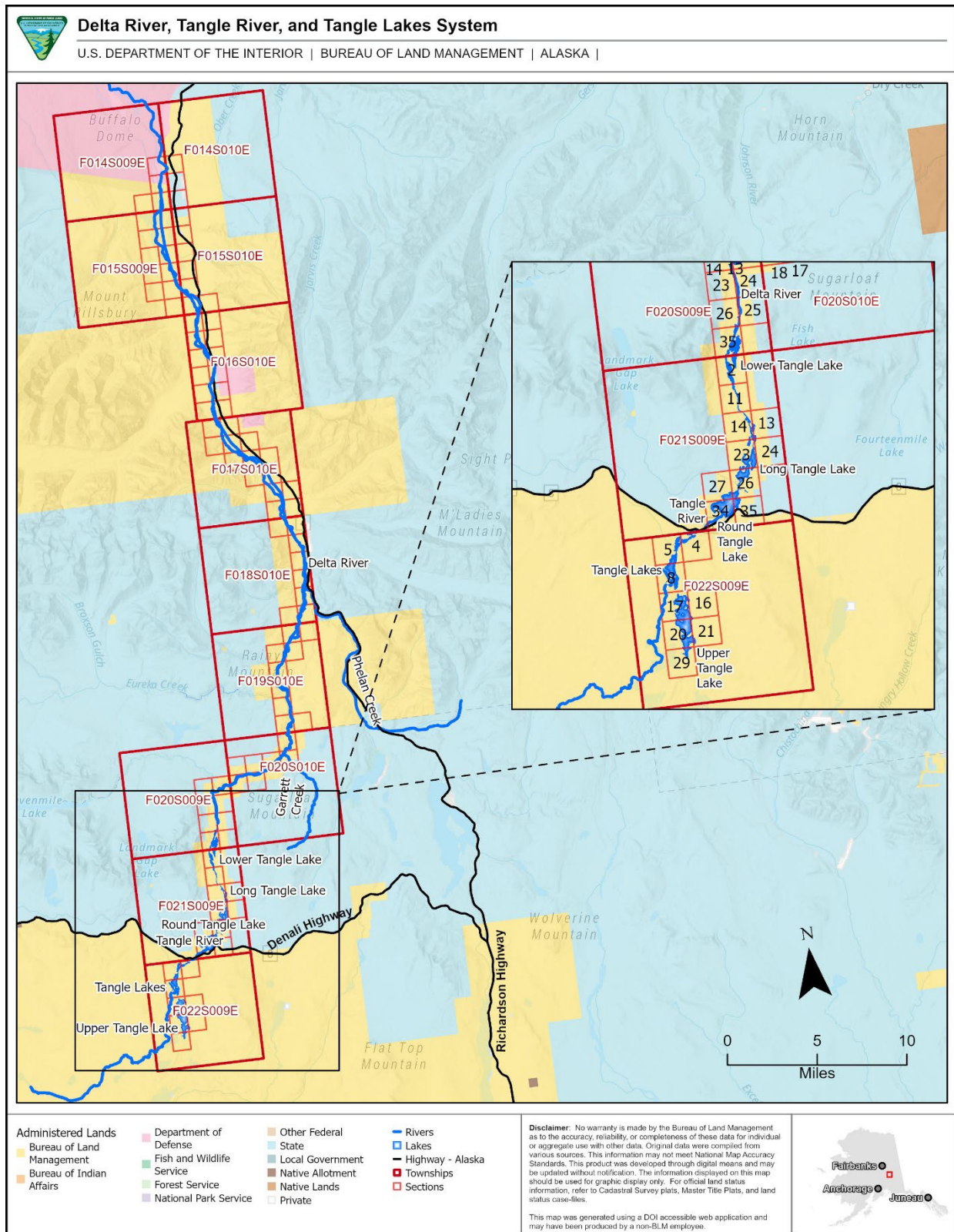
³ James H. Walker, DNR, Public Access and Defense Unit, to Ted Murphy, BLM, Acting State Director, May 14, 2019, "Draft recordable disclaimer of interest application for portions of the Delta River," file AKAK106418981 (AKAA-95490) (1864), Alaska State Office, BLM records, (State's application). The State's application and supporting documents are also available in this file.

⁴ Alaska Statehood 72 stat. 339.

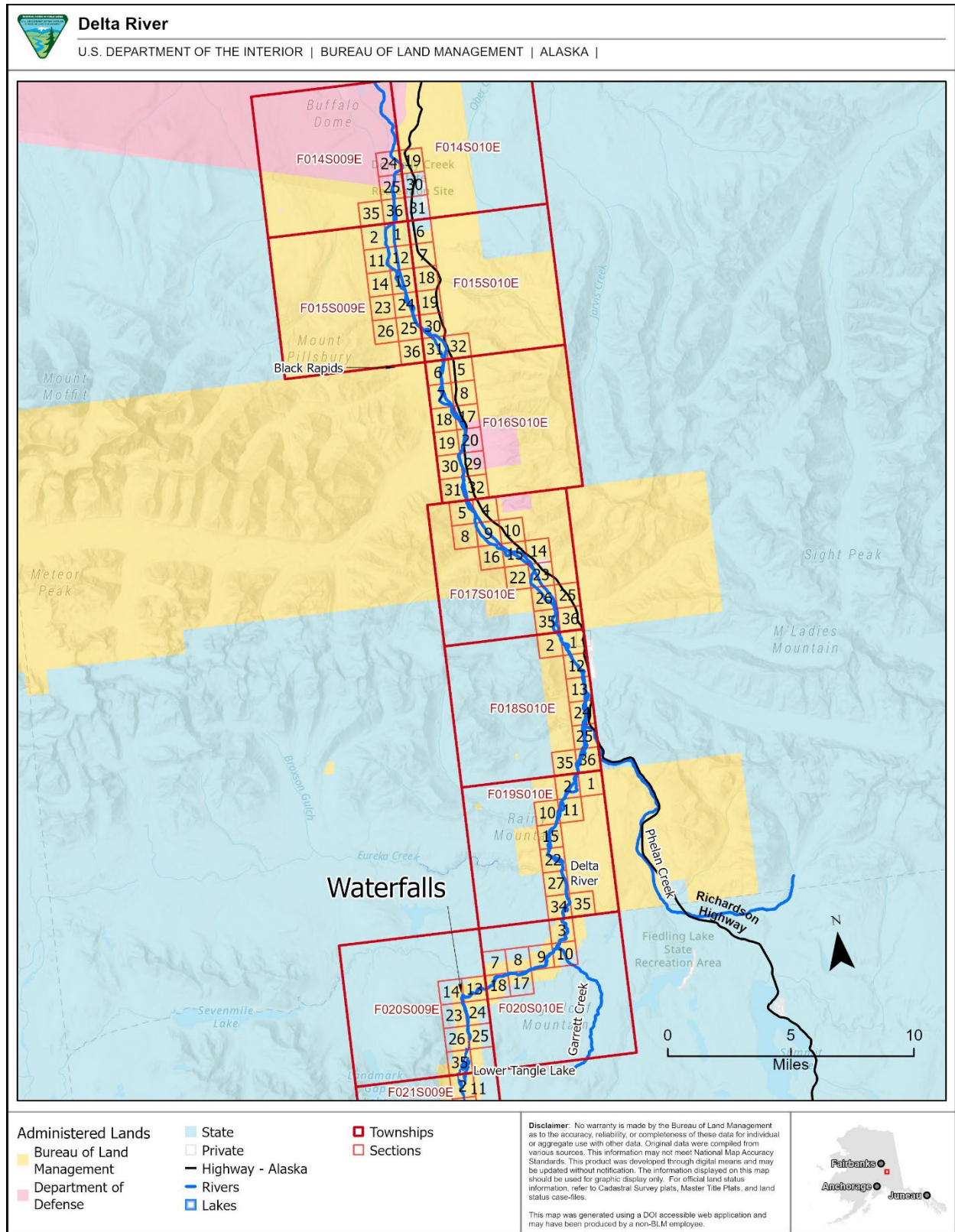
⁵ U.S. CONST. Art IV. § 3.C1.3.

⁶ Submerged Lands Act (SLA) of 1953, 43 U.S.C. § 1301 et seq.

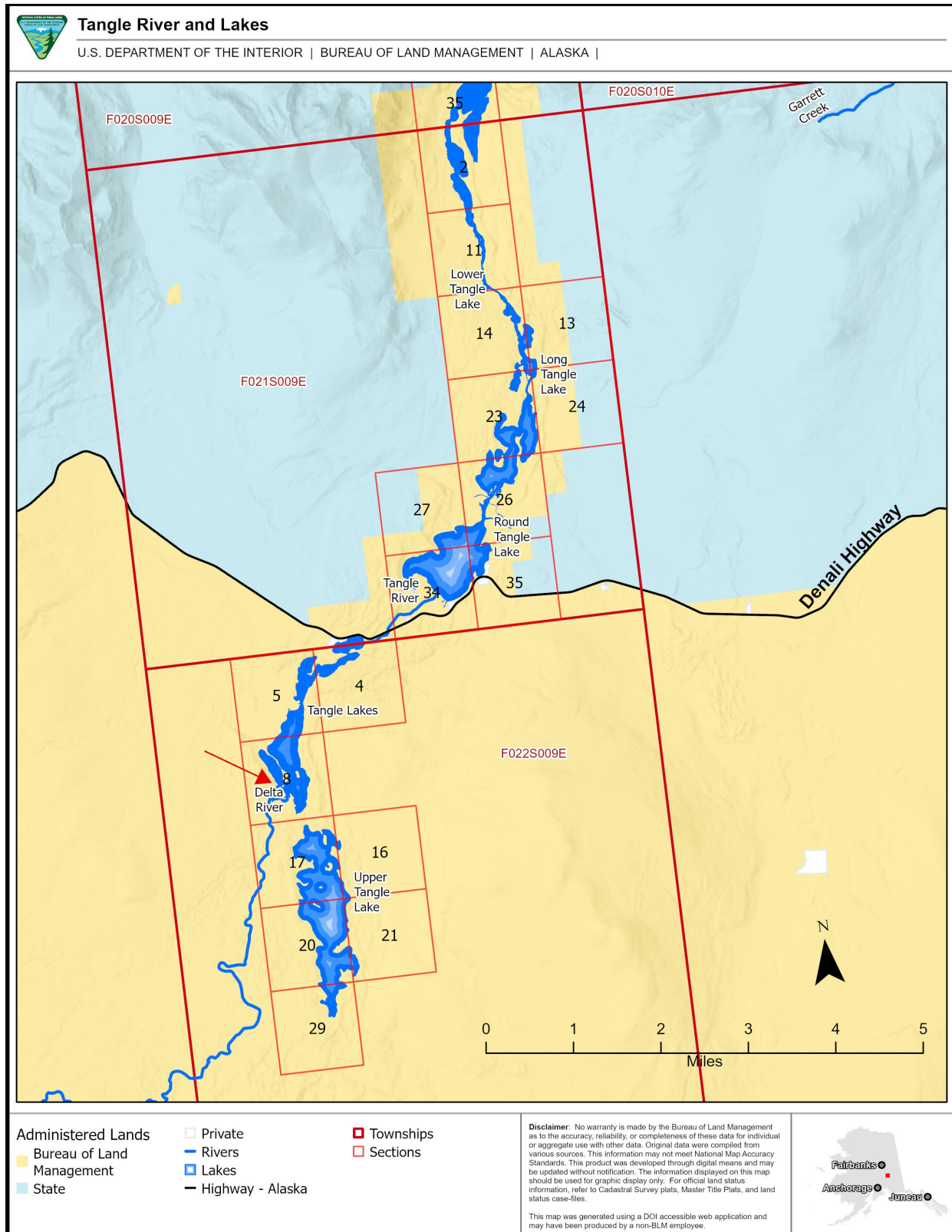
⁷ Submerged Lands Act (SLA) of 1988, 43 U.S.C. § 1631.



Map 1. Overview of the Delta River, Tangle Lakes and Tangle River system.



Map 2. Delta River. The subject portion of Delta River begins at the southern boundary of the Department of Army's Donnelly Training Areas East and West continuing upstream to its point of origin at the outlet of Lower Tangle Lake, which is also where Tangle River ends.



Map 3. Tangle Lakes and Tangle River system. The subject portion of Tangle River begins where it enters Tangle Lakes (red arrow) continuing downstream through Tangle Lakes, Round Tangle Lake, Long Tangle Lake, and Lower Tangle Lake where it ends, and the Delta River begins.

II. Lands Review

The application does not affect lands over which another land managing agency has jurisdiction. To adjudicate this application, the submerged lands under the subject waters were researched to identify any valid withdrawals occurring prior to Alaska's statehood, January 3, 1959, which would defeat the State's claim on title. The application area begins at the southern boundary of Donnelly Training Areas East and West, formerly known as Fort Greely East and West Training Ranges, in T. 14 N., R. 9 E., F.M. There are no valid pre-statehood withdrawals that would impact a decision on this application.

III. Notice of the Application and Public Comments

Notice of the State's application was published in the *Federal Register* on January 7, 2026.⁸ The Public notice of the State's application was published in the *Anchorage Daily News* and the *Fairbanks Daily News-Miner* for three consecutive weeks in January 2026. The notices invited reviews and comments to include the opportunity to present additional information. The 30-day comment period ended on February 6, 2026. The BLM received comments during the published notice period which provided additional evidence of post-statehood use of watercraft throughout the Tangle Lakes System. These comments are further described below. Information about this application and supporting evidence was also posted on the BLM-Alaska website.⁹

IV. Administrative Waiver Granted

A legal description of the lands for which a waiver is sought must be based on either an official United States public land survey or a metes and bounds survey tied to the nearest corner of an official public land survey, unless a waiver is granted.¹⁰ In the State's RDI application finalized on June 12, 2019, the State requested a waiver of this requirement.¹¹ The locations of the Delta River, Tangle River, and Tangle Lakes are clearly depicted on the U.S. Geological Survey quadrangle maps and are not in dispute. The OHWMs of these waterbodies are the legal boundary of the submerged lands. Since the boundaries of these waterbodies are ambulatory, the location may change over time. The BLM therefore determines that survey descriptions of the subject waterbodies are not needed to adjudicate the State's application. The waiver is hereby granted.

V. Applicable Legal Authority

The Submerged Lands Act of 1953, 43 U.S.C. § 1301(a), granted and confirmed to the states title to the lands beneath the inland navigable waters within the boundaries of each respective state.¹² It also gave the states the right and power to manage and administer these lands in accordance with state law. Due to the Equal Footing Doctrine, the Submerged Lands Act of 1953 was

⁸ 91 FR 516 (Document Number 2026-00031).

⁹ US Department of the Interior, Bureau of Land Management, *Recordable Disclaimers of Interest: Tanana River Region: Delta River System (Delta River, Tangle Lakes and Tangle River)*, (Feb. 18, 2026, at 10:28 AKST), <https://www.blm.gov/programs/lands-and-realty/regional-information/alaska/RDI/tanana>.

¹⁰ 43 CFR 1864.1-2(c)(1).

¹¹ 43 CFR 1864.1-2(d).

¹² SLA 43 U.S.C. §1301(a).

incorporated into the State's legal framework because the Alaska Statehood Act of 1958 made the Submerged Lands Act of 1953 applicable to Alaska.¹³

Section 315(a) of FLPMA, 43 U.S.C. 1745(a), authorizes the Secretary of the Interior to issue a document of disclaimer of interest in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and to determine whether a record interest of the United States in lands has terminated by operation of law or is otherwise invalid. This authority has been delegated to the BLM Alaska State Director.^{14,15}

VI. Standards of Navigability

The Federal test of navigability is found in *The Daniel Ball*, 77 U.S. 557 (1870). There, the U.S. Supreme Court stated: "Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water."¹⁶

In assessing the navigability of inland waterbodies, the BLM relies upon this test as well as Federal statutes and case law. Relevant Federal statutes include the Submerged Lands Act of 1953 and the Submerged Lands Act of 1988. The Supreme Court's most recent decision on title navigability, *PPL Montana, LLC v. Montana*, 132 S. Ct. 1215 (2012), summarizes and explains the proper interpretation of *The Daniel Ball* criteria. Additional guidance is provided in *Alaska v. Ahtna, Inc.*, 891 F.2d 1401 (9th Cir. 1989); *Alaska v. United States*, 754 F.2d 851 (9th Cir. 1983); and *Appeal of Doyon, Ltd.*, Alaska Native Claims Appeal Board RLS 76-2, 86 I.D. 692 (1979).

VII. Related BLM Navigability Findings

In support of their application, the State submitted a 2018 BLM navigability report titled "Reassessment of Navigability Reports dated February 26, 2010, and August 20, 2010, for the Delta River System in the Tanana River Region, Alaska."¹⁷ The conclusions in the 2018 report were different than the BLM's 2010 conclusions of non-navigability for portions of the Delta River, Tangle River, and Tangle Lakes.

VIII. Key Facts, Supporting Evidence, and Analysis

The State's application uses evidence and navigability recommendations provided in the BLM's 2018 reassessment report for the subject waterbodies. The 2018 report recommended the Delta River system be found navigable from the southern boundary of Fort Greely upstream through Upper Tangle Lake based on physical character evidence collected by the BLM and the State during the summer of 2017 and based on evidence of historical use as described in the 2010

¹³ 72 Stat. 339, 343 S.

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

¹⁵ FLPMA of 1976, Disclaimer of interest in lands, 43 U.S. Code § 1745(a).

¹⁶ *The Daniel Ball*, 77 U.S. 557, 563 (1870).

¹⁷ Jack Frost, Navigable Water Specialist, Lands and Realty Branch, BLM "Reconsideration of Navigability Reports dated February 26, 2010, and August 20, 2010, for the Delta River System in the Tanana River Region, Alaska" Alaska State Office, BLM records, (State's application), Feb. 14, 2018.

BLM navigability report.¹⁸ Those recommendations and analysis of the evidence are summarized and described below by segment, beginning at the downstream end of the application area moving towards the upstream extent.

The BLM also received and considered evidence of use for the Tangle Lakes system during the 30-day public comment period.¹⁹ The evidence received included post-statehood use of canoes and riverboats equipped with jet-drive outboard motors for pleasure, fishing, hunting, and travel throughout the Tangle Lakes system. Canoes were customarily used for travel and transportation in this drainage around the time of statehood.

Watercraft customarily used in the Delta River drainage region around the time of Alaska's statehood include motorboats, pole boats, and freight canoes.²⁰ Those watercraft were used for recreation, hunting, and to access mining claims, and they were capable of hauling commercial-size loads.²¹ In this section of the decision those watercraft are referred to as customary watercraft.

The Delta River beginning at the southern boundary of Donnelly Training Areas East and West continuing upstream to its confluence with Phelan Creek is navigable because customary watercraft were either used, or were susceptible to being used, for trade and travel at the time of statehood (Map 2). Based on physical character evidence collected in 2017, this segment of the river is continuous in nature with water depths averaging three feet deep or greater. Those water depths are adequate for the use of customary watercraft.

The Delta River from the confluence of Phelan Creek upstream to the confluence with Garrett Creek is navigable based upon the evidence summarized in the 2010 BLM navigability report (Map 2). The 2010 report documented pre- and post-statehood use by customary watercraft. Prior to statehood, numerous miners, prospectors, and trappers traveled by customary watercraft on this section of Delta River. Hunters traveled both upstream and downstream using freight canoes in this segment prior to and after statehood.

The Delta River, from its confluence with Garrett Creek upstream to its origin at the northern outlet of Lower Tangle Lake, is navigable based on its susceptibility to being used for trade and travel (Map 2). This section is too shallow for propeller-driven motorboats, but freight canoes and pole boats are capable of traversing this portion. Watercraft are typically portaged around the rapids and waterfalls located in the Delta River canyon in this segment, but the portage is of a short duration, and of such a small size that it would be difficult to manage due to over division of the river. This meets the de minimis exception to *PPL Montana, LLC v. Montana*, 132 S. Ct. 1215 (2012), and therefore does not defeat the river's overall navigability.

The Tangle River as described in the State's application and illustrated in Map 3 of this report is navigable based on its susceptibility to being used for trade and travel. Tangle River was either used or was susceptible to being used by the customary watercraft. Shallow water does limit the use of propeller-driven motorboats in some portions of Tangle River, but those portions can be

¹⁸ Michael H. Schoder, DSD, Cadastral Survey Program, Memorandum to Gary Reimer, Anchorage District Manager, "Navigable Waters in the Delta River National Wild and Scenic River Corridor", Feb. 26, 2010 (2010 BLM Memo).

¹⁹ 91 FR 516 (Document Number 2026-00031).

²⁰ 2010 BLM Memo at 25, 28.

²¹ *Id.* at 27.

used by other customary watercraft. The short section of Tangle River between Round Tangle Lake and Tangle Lake is especially shallow and rocky and would require dragging, lining, or portaging for customary watercraft during typical summer water levels. However, with access via the pre-statehood Denali Highway and a road to each of the two lakes, it's unlikely that users would drag, line, or portage their watercraft within that section. Nonetheless, the relatively short drag or portage is of such a small size that it would be difficult to manage due to over division of the river. This meets the de minimis exception to *PPL Montana, LLC v. Montana*, 132 S. Ct. 1215 (2012), and therefore does not defeat the navigability of Tangle River.

Based on field observations and reference material, the Delta River, Tangle River, and Tangle Lakes as described in the State's application area appear to be in their natural and ordinary condition that existed at the time of Alaska's statehood.

IX. Summary

The State's application and available information were evaluated for evidence the subject waters of the Delta River, Tangle River, Lower Tangle Lake, Long Tangle Lake, Round Tangle Lake, Tangle Lake, and Upper Tangle Lake were navigable at the time of Alaska's statehood.

The evidence demonstrates:

- The physical character of the subject waters of the Delta River, Tangle River, Lower Tangle Lake, Long Tangle Lake, Round Tangle Lake, Tangle Lake, and Upper Tangle Lake remain in their natural and ordinary condition that existed at the time of Alaska's statehood.
- Prior to Alaska statehood, motorboats, pole boats, and freight canoes were customarily used for trade and travel in the Delta River drainage system.
- The physical characteristics of the subject waters, compared with the estimated draft of motorboats, pole boats, and freight canoes were capable of supporting customary modes of waterborne trade and travel at the time of statehood.

X. Decision

Based upon the preponderance of the evidence, some of which is summarized above, the BLM has determined that title to the submerged lands and beds up to the OHWMs of Delta River, Tangle River, Lower Tangle Lake, Long Tangle Lake, Round Tangle Lake, Tangle Lake, and Upper Tangle Lake as described in this decision passed to the State of Alaska at statehood.

Accordingly, based on the foregoing and the documentation contained in the case record, I have determined that the State's application for an RDI is sufficient to demonstrate the navigability of the portions described below for Delta River, Tangle River, and Tangle Lakes at the time of statehood and in compliance with the applicable requirements of the provisions of Section 315 of FLPMA and the regulations contained in 43 CFR Subpart 1864. The State's application for an RDI is hereby approved as follows:

- 1) Delta River, all submerged lands between the ordinary high-water marks of the left and right banks within the following:

Fairbanks Meridian, Alaska

T. 14 S., R. 9 E., unsurveyed,
secs. 24, 25, and 36.

T. 14 S., R. 10 E., partially surveyed,
secs. 19, 30 and 31.

T. 15 S., R. 9 E., unsurveyed,
secs. 1 and 2, secs. 11 thru 14, secs. 23 thru 26, and sec. 36.

T. 15 S., R. 10 E., partially surveyed,
secs. 6, 7, 18, 19, 30, 31, and 32.

T. 16 S., R. 10 E., partially surveyed,
secs. 5 thru 8, secs. 17 thru 20, and secs. 29 thru 32.

T. 17 S., R. 10 E., partially surveyed,
secs. 4 and 5, secs. 8 thru 10, secs. 14 thru 16, and secs. 22, 23, 25, 26, 35, and 36.

T. 18 S., R. 10 E., partially surveyed,
secs. 1, 2, 12, 13, 24, 25, 35, and 36.

T. 19 S., R. 10 E., partially surveyed,
secs. 1, 2, 10, 11, 15, 22, 27, 34, and 35.

T. 20 S., R. 10 E., partially surveyed,
sec. 3, secs. 7 thru 10, and secs. 17 and 18.

T. 20 S., R. 9 E., partially surveyed,
secs. 13 and 14, secs. 23 thru 26, and sec 35.

- 2) Tangle River including the interconnected Tangle Lakes, all submerged lands between the ordinary high-water marks of the left and right banks and or shores, within the following:

Fairbanks Meridian, Alaska

T. 20 S., R. 9 E., partially surveyed,
secs. 25, 26, and 35.

T. 21 S., R. 9 E., partially surveyed,
secs. 2, 11, 13, 14, 23, 24, 26, 27, 33, 34, and 35.

T. 22 S., R. 9 E., partially surveyed,
secs. 4, 5, 8, 16, 17, 20, 21, and 29.

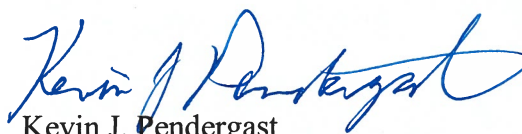
The United States affirms it has no interest in the lands described above because the federal interests passed to the State of Alaska at the time of statehood. Approving the State's application for an RDI provides certainty about ownership of the submerged lands described above in application AKAK106418981 and removes a cloud on the title.

XI. Appeal Procedure

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR Part 4. The notice of appeal must be filed no later than 30 days after the date of receiving notice of this decision. Any notice of appeal must be filed with the IBLA and must include a copy of the decision being appealed, a statement of standing, and a statement of timeliness.

You may file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board. A petition for a stay must show sufficient justification based on the following criteria: (i) Immediate and irreparable harm. The likelihood of immediate and irreparable harm if a stay is not granted; (ii) Balance of harms. The irreparable harm to the appellant absent a stay exceeds the harm to the United States and other parties from a stay being granted; (iii) Public Interest: whether the public interest favors granting a stay; and (iv) Likelihood of success. The appellant is likely to succeed on the merits.

The appellant must serve a copy of the notice of appeal and any accompanying documents on the office of the officer who made the decision, each person or entity named in the decision, and the appropriate Office of the Solicitor at the time of filing with IBLA (see 43 CFR 4.403(b); 4.407(b)). Parties must serve the Office of the Solicitor at the address shown on Form 1842-1. Service on a party known to be represented by an attorney or other designated representative must be made on the representative. If a statement of reasons for the appeal is not included with the notice of appeal, it must be filed within 30 days after the record on appeal is filed with the IBLA. Failure to file a statement of reasons within the time required will subject the challenged decision to summary affirmance (see 43 CFR 4.412(a)).


Kevin J. Pendergast
State Director

Enclosures:
Form 1842-1
Appeal Regulations

Copy w/enclosures furnished to:

Access Defense Program Manager
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99518-1599

Glennallen FM (AG)