Wood River and Wood River Lakes w/Interconnecting Rivers

August 2, 1991 – U.S. Coast Guard Nav. Determination
Wood River from mouth (59°03'N, 158°25'W, AK Place Names) to Aleknagik Lake (59°17'N, 158°37'W)

December 12, 1983 – BLM Nav. Determination
Lake Beverly, Lake Aleknagik, Lake Nerka, and Agulukpak River (Wood River Lakes) are navigable

November 23, 1983 – BLM Nav. Determination
Lake Kulik, Mikchalk Lake, & Peace River (of Wood River Lakes) are determined navigable

November 29, 1979 – BLM Nav. Determination
All of the Wood River, Lake Aleknagik, Lake Nerka, & the Agulowak River are determined navigable

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

A-054314, etc. 1/ (2620)
AA-6648-A (2651)
thru
AA-6648-J (2651)
AA-6648-L (2651)
thru
AA-6648-O (2651)
AA-6648-EE (75.4)
(961)

CERTIFIED MAIL 804860
RETURN RECEIPT REQUESTED

NOV 29 1979

DECISION

State of Alaska	:	A-054314, A-054315
Department of Natural	:	A-054323, A-054325
Resources	:	A-054332, A-054609
Division of Research	:	A-054613, A-054615
and Development	:	A-054617, AA-21718
323 East Fourth Avenue	:	AA-21732, AA-21733
Anchorage, Alaska 99501	:	AA-21751
	:	State Selections
	:	
Aleknagik Natives, Limited	:	AA-6648-A thru AA-6648-J
Aleknagik, Alaska 99555	:	AA-6648-L thru AA-6648-O
	:	Village Selections
	:	
Bristol Bay Native Corporation	:	
P.O. Box 237	:	
Dillingham, Alaska 99576	:	

Tentative Approval Rescinded in Part
State Selection Applications Rejected in Part
Lands Proper for Village Selection
Approved for Interim Conveyance or Patent

On May 2 and 19, 1961, the State of Alaska filed general purposes grant selection applications A-054314, A-054315, A-054323, A-054325, A-054332, A-054609, A-054613, AA-054615 and A-054617, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). These applications selected lands near the Native village of Aleknagik. Decisions granting tentative approval were issued on September 3 and 6, 1963, for applications A-054314 and A-054315 covering Tps. 8 S., Rs. 55 and 56 W., Seward Meridian.

On December 18, 1971, Sec. 11 of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601, 1610 (1976)) (ANCSA), withdrew the lands surrounding the Native village of Aleknagik, including lands in the subject State selection applications for Native selection. On June 17 and October 15, 1974, Aleknagik Natives Limited filed village selection applications AA-6648-A through J,

1/ A-054315, A-054323, A-054325, A-054332, A-054609, A-054613, A-054615, A-054617, AA-21718, AA-21732, AA-21733, AA-21751

is granted to Aleknagik Natives Limited, for the surface estate and shall be subject to the same conditions as the surface conveyance.

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

Wood River;
Agulowak River;
Lake Aleknagik;
Lake Nerka.

The Muklung River is considered to be tidally influenced to the northern boundary of Sec. 29, T. 10 S., R. 54 W., Seward 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 Anchorage Times. 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, 701 C Street, Box 13, 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 DEC 23 1979, 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.)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

reviewed Dec 16, 83 no comment

Dillingham-SS-FY'84-#3
A-054308
A-054603
A-054569
A-054571
2628 (962) NAV

NOV 25 1983

Memorandum

To: Chief, Branch of State Adjudication (964)

From: Deputy State Director for Conveyance Management (913)

Subject: Final Navigability Determination for State Selections - Dillingham and Goodnews Bay Quadrangles

This is the final navigability determination for water bodies within the following State selected lands:

Seward Meridian, Alaska

T. 6 S., R. 55 W;	(A-054569)
T. 5 S., R. 56 W;	(A-054308)
T. 6 S., R. 56 W;	(A-054571)
T. 6 S., R. 57 W;	(A-054603)

These townships are located between 40 and 50 miles north of Dillingham in the Wood River-Tikchik Lakes region. This area is one of long, narrow, deep, crystal clear lakes which lie in an east-west orientation between Wood River Mountains to the west and Nusnagak Lowlands to the east. The lakes are interconnected by a series of streams creating a ladder effect and affording boat travel between them. The configuration of rivers and lakes and their proximity to the coast and well-traveled Nushagak River have made the region an important trading center historically and continue to make it an important recreational area today.

The report area encompasses portions of the northernmost Wood River lakes: Lake Kulik, and Lakes Nerka and Beverley and extensions. Remaining freshwater bodies include Peace River, Mikchalk Lake, Silver Horn and Golden Horn arms of Lake Beverley, and Tsun, Silver Horn, Joe, Sam, Moose and Hope creeks.

In an August 29, 1963 memorandum addressing the Wood River-Tikchik Lakes selections, Lake Kulik, Lake Beverley, Lake Nerka, Mikchalk Lake, and the Peace River were considered navigable by BLM and the State of Alaska. Under the principle

Creek, Clarence and his party thought it was feasible as they had flown over it on their way into Rainbow Basin for a moosehunt. However, the unnamed lake which they landed on proved too small to take off from once they bagged two moose, so they floated the creek in rafts. Clarence noted that the creek was small and overgrown with brush on both sides. He said that although at certain times of the year it would be possible to boat the creek, he didn't know of anyone else using it and certainly would not call it navigable. Clarence wouldn't call any of the small streams in the report area navigable, stating that there isn't even much winter use on them. Clarence Wren was a resident of Aleknagik from 1931-1948 and has been a resident of Dillingham since.

On September 30, 1983, Tom Hawkins, Director of Land and Water Management for the State of Alaska, told Eaton that all the streams in the report area are small ones. He further related that, historically, trapping and trading were important in the Wood River-Tikchik Lakes region and noted that the old Russian travel-trade loop was up the Nushagak to the Holitna River on the larger rivers.

Interviewed by Eaton on October 4, 1983, Joe Chythlook, a Dillingham resident and pilot for Yute Air Alaska (842-5333), stated that Moose, Hope, Silver Horn, and Tsun creeks are all small and not navigable by motorboat. He described Moose and Hope Creeks as shallow and obstructed by windfalls, adding that given high water it might be possible to take a boat, especially one with a jet unit, one mile upstream. Generally, Joe and others merely check the mouths of these streams when moose hunting. Joe noted that since Lake Beverley is quite a distance from any settlement, the area doesn't receive heavy wintertime use. Though the entire region has been trapped by people from Aleknagik on snowmachines, it is most popular for just the month of beaver season between January and February. Joe added that Moose and Hope creeks are not regular winter trails. With respect to Tsun and Silver Horn creeks, Joe noted that they are also small, obstructed by windfalls, and not navigable by motorboats. Though not very practical, it would be possible to canoe up Silver Horn Creek. Joe mentioned that Rainbow Basin is a popular snowmachine trail in wintertime running both on creek ice and alongside the creekbed.

A review of the master title plats depicts Native allotments along only the larger, navigable water bodies in the report area.

Per the previous determination, Lake Kulik, Lake Beverley, Silver Horn and Golden Horn Arms, Lake Nerka, Amakuk Arm,

Mikchalk Lake, and the Peace River, are navigable. Based on the information in this report, the remaining named water bodies (Tsun, Silver Horn, Joe, Sam, Moose, and Hope creeks) are determined nonnavigable.

/s/ Robert W. Arndorfer

cc:

Title Administration
Division of Technical Services
Alaska Department of Natural Resources
Pouch 7035
Anchorage, Alaska 99510-7035
(w/map)

✓ Retained Lands Unit - Navigability
Division of Land and Water Management
Alaska Department of Natural Resources
Pouch 7-005
Anchorage, Alaska 99510
(w/map)

Attachment #3
Exhibit A

Files, Navigable Waters, Alaska

December 31, 1975

In reply refer to:
9185 (922)

Robert Q. Pickering (E&NTF Member)

Navigable Waters within Village Selections

Members of the Easement and Navigability Task Force held regular meetings over the past few months on village selections. Easement recommendations and navigable water determinations were made.

Since easements do not have to be identified during survey, reference to them are omitted.

The purpose of this report is to identify the various rivers and lakes within the Village selections the Task Force determined to be navigable.

The area of all navigable water is to be excluded from the village selections.

Navigability determinations are based on historical evidence, field investigation, public testimony all documented in the case files, and the Bureau's navigability guidelines.

Navigable waters to be excluded from village selections as determined by the Task Force up to date are listed by village name alphebetical as follows:

Aleknagik	Wood River, Agulowak River, Lake Alelenagik, Lake Nerka, and Lake Nunouaugaluk
Angoon	Tidal water only
Aniak	Kuskokwim River and Aniak Slough. Aniak River was considered navigable pending assimilation of past history.
Chefornak	Kinia River and Keguk River, both are tidal also.
Chitna	Copper River up as far as Lower Tonsina. A final determination was not made on the Chitna River.
Clarks Point	Tidal water only. Manakotak River up as far as tidal influenced.

Crooked Creek	Kuskokwim River
Dillingham	Nushagak River and Wood River. Snake, Manakotak, and Werry Rivers as far up as influenced by tide. Snake Lake may be influenced by tide but not sufficient ground investigation to make a determination.
Dot Lake	Tanana River only.
Eklutna	Kinik River up as far as tidal influenced.
Ekuk	Igushik River, up to village of Manakotak and if tidal influenced farther, then to head of tidal influence.
Ekwok	Nushagak River
Eyak	Navigability determination withheld pending additional information.
False Pass	Tide water only.
Georgetown	Kuskokwim River
Gulkana	Copper River up as far as Lower Tonsina.
Healy Lake	Tanana River, Healy River up to Healy Lake, George Creek, Healy Lake, Lake George, and Mansfield Lake.
Hoonah	Tide water only.
Kalskag (upper)	Kuskokwim River That portion of the water route system along the portage between the Kuskokwim and Yukon Rivers. This system is Mud Creek, Crooked Creek, Johnson River, an unnamed lake, Kulik Lake, and Talbiksok River. For navigability purposes only that portion of the Johnson River in the above system was considered at this time.

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

reviewed Jan 24, 84 no comment

Dillingham-SS-FY'84-#
A-054310 (2620)
A-054312 (2620)
A-054314 (2620)
A-054315 (2620)
A-056351 (2620)
A-054373 (2620)
A-054609 (2620)
A-054605 (2620)
2628 (962) NAV

DEC 12 1983

Memorandum

To: Chief, Branch of State Adjudication (964)

From: Deputy State Director for Conveyance Management (960)

Subject: Final Navigability Determination for State Selections A-054310 et al.

This is the final navigability determination for water bodies on lands encompassed by State selection serial numbers A-054310, A-054605, A-054312, A-054314, A-054315, A-056351, A-054373, and A-054609. For reporting convenience, all water bodies within the report area in the following townships were reviewed:

Seward Meridian, Alaska

T. 7 S., Rs. 54 through 57 W.
T. 8 S., Rs. 54 through 57 W.

These townships are located approximately 18 miles north of Aleknagik. The principal freshwater bodies in the report area are: Lake Beverley, Lake Nerka, Amakuk Arm, Ott Bay, Anvil Bay, River Bay, Agulukpak River, Lynx Lake, and Stovall Lake.

The AEIDC contract material does not contain references to smaller lakes and streams in the area.

In 1963, the BLM prepared a report on water bodies in the Wood River/Tikchik Lake system. Based on this report, the BLM on August 29, September 29, and September 6, 1963, recommended that the major bodies, including Lake Nerka, Lake Beverley, and the Agulukpak River, be considered navigable. This recommendation was included in a decision to tentatively approve lands to the State of Alaska.

Subsequent work resulted in the patenting of portions of some of the uplands surrounding these water bodies, which were

Sometimes he walks in. He does not use the stream to access the parcel as it is not useable by boat. He added that neither he, nor anyone else, uses the lake for subsistence.

Some of the other water bodies are probably used in their frozen state, as they offer the most expedient route for winter travel and some may be used in their liquid state by recreational boaters in kayaks, canoes, and small inflatables. In addition, some of the other lakes may be used by float or ski planes for access into this area. Under existing criteria, floatplane use, frozen state use, and recreational use by themselves do not make a water body navigable.

Based on the information in this report, the original of which is filed in the Navigability Section, I affirm previous determinations that Lake Beverley, Lake Aleknagik, Little Togiak Lake and outlet, Lake Nerka, Amakuk Arm, Agulukpak River, and the bays included by lateral extent are navigable. I determine all other named and unnamed water bodies within the report area to be nonnavigable.

/s/ Robert W. Arndorfer

cc:

Retained Lands Unit - Navigability
Division of Land and Water Management
Alaska Department of Natural Resources
Pouch 7-005
Anchorage, Alaska 99510
(w/map)

Title Administration
Division of Technical Services
Alaska Department of Natural Resources
Pouch 7035
Anchorage, Alaska 99510-7035

Aug 19, 1981

Water Body	HUC
1. Becharof Lake	30203
2. Big Boulder Creek	10303
3. Big Lake	20401
4. Chena River	80306
5. Chilkoot Lake	10303
6. Egegik River	30203
7. Eyak River	20104
8. Colville River	60304
9. Eek River	30502
10. Glacier Creek	10303
11. Herman Creek	10303
12. Hood Lake	20401
13. Iditarod River	90303
14. Iliamna River	30206
15. Iliamna, Lake	30206
16. Jarvis Creek	10303
17. Kantishna River	80310
18. Kasilof River	20301
19. Kenai Lake	20302
20. Kenai River	20302
21. Klehini River	10303
22. Knik River	20402
23. Kobuk River	50302
24. Koyukuk River	90109
25. Kuskokwim River	30502
26. Kuzitrin River	50105
27. Kvichak River	30206
28. Lake Clark	30205
29. Lake Lousie	20103
30. Little Boulder Creek	10303
31. Little Salmon River	10303
32. Mendenhall River	10301
33. Naknek River	30204
34. Noatak River	50401
35. Nushagak River	30303
36. Porcupine Creek	10303
37. Porcupine River	80108
38. Portage Creek	20302
39. Portage Lake	20302
40. Selawik Lake	50301
41. Skilak Lake	20302
42. Snake River	30306
43. Spenard Lake	20401
44. Stikine River	10207
45. Susitna River	20505
46. Tanana River	80311
47. Tolovana River	80309
48. Tustumena Lake	20301
49. Tyone Lake	20501
50. Tyone River	20501
51. Ugashik River	30202
52. Wood River and Lakes	30304
53. Yukon River	7, 8, 9

Aug 19, 1881

NAVIGABLE WATERS OF THE U.S. WITHIN THE SEVENTEENTH

COAST GUARD DISTRICT (STATE OF ALASKA)

SECTION I. NAVIGABLE WATERS OF THE U.S. BY DEFINITION UNDER 33 CFR 2.05-25(A)(1) OR (2): These waters include the territorial seas of the U.S. and all internal waters of the U.S. that are subj to tidal influence. Internal waters that are subject to tidal influence are too numerous to list name.

SECTION II. INTERNAL WATERS DETERMINED TO BE NAVIGABLE WATERS OF THE U.S.:

NAME OF WATERWAY:	DECISION SOURCE:	DECISION YEAR:	DECISION BASIS:	LIMIT OF NAVIGABILITY:	CLARIFYING REMARKS:
Big Lake	Administrative Determination	1975	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	Anchorage Area
Chena River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Fairbanks	Fairbanks Area
Colville River	Administrative Determination	1975	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Killik River	Harrison Bay Area
Iliamna Lake	Administrative Determination	1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	
Kenai Lake	Administrative Determination	1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	Kenai Area
Kenai River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to and including Kenai Lake	Kenai Area
Kobuk River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Kobuk	Hotham Inlet Area

SECTION II. INTERNAL WATERS DETERMINED TO BE NAVIGABLE WATERS OF THE U.S :

NAME OF WATERWAY:	DECISION SOURCE:	DECISION YEAR:	DECISION BASIS:	LIMIT OF NAVIGABILITY:	CLARIFYING REMARKS:
Kuskokwim River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to McGrath	Kuskokwim Bay Area
Kvichak River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	Kvichak Bay Area
Mendenhall River	Administrative Determination	1983	33 CFR § 2.05-25 (a)(2)	Mouth to Montana Creek	Juneau Area
Naknek River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(2)	Mouth to Mile 25	Kvichak Bay Area
Noatak River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Noatak	Kotzebue Sound Area
Nushagak River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Koliganek	Dillingham Area
Porcupine River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	Yukon Tributary
Skilak Lake	Administrative Determination	1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	Kenai Area
Susitna River	Administrative Determination	1970	33 CFR § 2.05-25 (a)(2)	Mouth to Gold Creek	
Tanana River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Mouth to Chena River	Yukon Tributary

SECTION II. INTERNAL WATERS DETERMINED TO BE NAVIGABLE WATERS OF THE U.S.:

NAME OF WATERWAY:	DECISION SOURCE:	DECISION YEAR:	DECISION BASIS:	LIMIT OF NAVIGABILITY:	CLARIFYING REMARKS:
Wood River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(2) & (3)(i)	Entire Waterway	Dillingham Area
Yukon River	Administrative Determination	1971/ 1991	33 CFR § 2.05-25 (a)(3)(i)	Entire Waterway	

SECTION III. INTERNAL WATERS FOR WHICH RECORDS OF NEGATIVE DETERMINATIONS EXIST:

NAME OF WATERWAY:	DECISION SOURCE:	DECISION YEAR:	LIMIT OF NON-NAVIGABILITY:	CLARIFYING REMARKS:
Big Boulder Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Chilkoot Lake	Administrative Determination	1987	Non-Tidal Portion	Skagway Area
Glacier Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Herman Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Hood Lake	Administrative Determination	1963	Non-Tidal Portion	
Jarvis Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Klehini River	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Knik River	Administrative Determination	1986	From Old Glen Hwy Bridge to Knik Glacier	Anchorage Area
Little Boulder Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Little Salmon River	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Louise Lake	Administrative Determination	1970	Non-Tidal Portion	Gulkana Area

SECTION III. INTERNAL WATERS FOR WHICH RECORDS OF NEGATIVE DETERMINATIONS EXIST:

NAME OF WATERWAY:	DECISION SOURCE:	DECISION YEAR:	LIMIT OF NON-NAVIGABILITY:	CLARIFYING REMARKS:
Porcupine Creek	Administrative Determination	1980	Non-Tidal Portion	Skagway Area
Portage Creek	Administrative Determination	1988	Non-Tidal Portion	Anchorage Area
Portage Lake	Administrative Determination	1988	Non-Tidal Portion	Anchorage Area
Spenard Lake	Administrative Determination	1963	Non-Tidal Portion	Anchorage Area
Susitna Lake	Administrative Determination	1970	Non-Tidal Portion	
Susitna River	Administrative Determination	1970	Above Gold Creek	
Tyone Lake	Administrative Determination	1970	Non-Tidal Portion	Gulkana Area
Tyone River	Administrative Determination	1970	Non-Tidal Portion	

SECTION 10 WATERWAYS

No.	WATERWAY	NAVIGABLE LENGTH	REMARKS
1.	Becharof Lake	43.0	Empties into Egegik Lake
2.	Big Lake	4.5	Drainage to tidal water not navigable
3.	Lake Clark	45.0	Connects w/ Lake Illiamna via newhalin River
4.	Eek River	20.0	Tributary to Kuskokwim River
5.	Egegik River	28.0	Navigable for entire length
6.	Eyak River	4.5	
7.	Iditarod River	340.0	
8.	Lake Illiamna	70.0	Heads Kvichak River
9.	Kantishna River	100.0	
10.	Kasilof River	6.0	Drains Tustemena Lake; total length 17 miles
11.	Kenai Lake	20.0	
12.	Kenai River	81.0	Navigable for entire length
13.	Kobuk River	200.0	
14.	Koyukuk River	544.0	
15.	Kuskokwim River	400.0	Navigable to McGrath
16.	Kuzitrin River	15.0	
17.	Kvichak River	50.0	
18.	Lake Louise	8.0	4 miles wide
19.	Naknek River	19.5	
20.	Nushagak River	34.0	Navigable to mouth of Wood River
21.	Porcupine River	225.0	Navigable for entire length in Alaska
22.	Selawik Lake	50.0	20 miles wide
23.	Skilak Lake	12.6	On Kenai River, downstream of Kenai Lake
24.	Snake River	.475	Authorized project at Nome Harbor
25.	Stikine River	30.0	Authorized project for entire length in Alaska
26.	Susitna River	115.0	
27.	Tanana River	455.0	Nenana 250 miles upstream is transfer point to railroad
28.	Tolovana River	135.0	
29.	Tustumena lake	23.0	Head of Kasilof River
30.	Ugashik River	13.0	
31.	Wood River and Lakes	48.0	Navigable for 24 miles on River, 24 miles on Lakes
32.	Yukon River	1,432.0	Navigable for entire length in Alaska

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
P.O. BOX 898
ANCHORAGE, ALASKA 99506-0898

19 AUG 1991

REPLY TO
ATTENTION OF:

Environmental Resources Section

Mr Rick Davidge, Director, Division of Water
Alaska Department of Natural Resources
P.O. Box 107005
Anchorage, Alaska 99510-7005

Dear Mr. Davidge:

This letter is in regard to our initiation of navigability studies in Alaska. As you may know, we are authorized by Congress to regulate certain activities in navigable waterways, pursuant to Section 10 of the Rivers and Harbors Act of 1899. Section 10 requires that a permit be obtained from the Chief of Engineers to build any structure in or over any navigable water of the United States, to excavate or deposit material in such waters, or to perform any other work affecting the course, location, condition, or capacity of such waters.

Navigable waters of the United States are those that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce. Navigability must be determined by a study and determination or by a Federal court decision for all waters not subject to the ebb and flow of the tide. A determination of navigability applies laterally over the entire surface of the water body and is not extinguished by later actions or events which impede or destroy navigable capacity. Navigability, from the Corps of Engineers' (CE) perspective, determines jurisdiction under Section 10, and empowers the CE to regulate the above types of activities and their impacts on navigation and other public interest factors. CE jurisdiction does not affect ownership of streambed or riparian rights.

The Alaska District is initiating navigability studies for certain waterways in Alaska which are navigable in fact, but lack the navigability studies and determinations necessary to assert Section 10 jurisdiction. We recognize the effort your agency has expended in documenting your own navigability studies and the expertise of your staff in this area. The CE believes data you have gathered and studies you have performed may be applicable to our navigability studies. We would like to cooperate with you so as not to duplicate effort and to assure that conflicts in documentation do not occur. We would appreciate any assistance you could offer and will be setting up a meeting at the Alaska

District to discuss the study effort and any concerns you may have. We request access to information pertaining to navigability that your agency has assembled, and would appreciate your participation at this initial project scoping meeting.

Our Environmental Resources Section will be managing the project for the Enforcement Section, Regulatory Branch. Mr. Brad Platt of the Environmental Resources Section may be contacted at 753-2616 for additional information. Please have your point of contact call Mr. Platt by September 15, 1991, so we can set a time for the initial agency meeting.

Sincerely,

Robert K. Oja

Robert K. Oja
Chief, Regulatory Branch

U.S. Department of Transportation
United States Coast Guard

Commander
Seventeenth
Coast Guard District

P.O. Box 25517
Juneau, AK 99802-5517
Phone: (907)463-2050
Staff Symbol: (dl)

16210
8 Aug 91

From: Commander, Seventeenth Coast Guard District
To: Distribution

Subj: SEVENTEENTH DISTRICT LIST OF NAVIGABLE WATERS

Ref: (a) 33 C.F.R. § 2.05-25
(b) 33 C.F.R. § 1.30-1(c)

1. Enclosed herewith is an updated listing of navigable waters of the U.S. within the Seventeenth Coast Guard District for purposes of Coast Guard jurisdiction per reference (a). This updated listing supersedes all prior listings.

2. Based upon review of available historical and geographic data, I have concluded that, with the exception of Big Lake, all of the waterways described and/or listed in Sections I and II of the enclosed listing are subject to the annual recreational vessel fee pursuant to reference (b). These waterways are subject to the recreational vessel fee to the extent of their navigability as indicated in the enclosed listing.

M. L. DORSEY
By direction

Encl: (1) Navigable Waters of the U.S. within the Seventeenth Coast Guard District

Dist: CGD SEVENTEEN (o), (m), (b), (oan)
CG MSO Anchorage
CG MSO Juneau
CG MSO Valdez
COMDT (G-NAB)
COMDT (G-LMI)
CG PACAREA (Pl)
CG PACAREA (Pj)

U.S. Department of Transportation
United States Coast Guard

Commander
Seventeenth
Coast Guard District

P.O. Box 25517
Juneau, AK 99802-5517
Phone: (907)463-2025
Staff Symbol: (d)

16210
2 August 1991

From: Commander, Seventeenth Coast Guard District
To: Navigability File

Subj: NAVIGABILITY DETERMINATIONS FOR CHENA RIVER, KENAI RIVER, KOBUK RIVER, KUSKOKWIM RIVER, KVICHAK RIVER, NAKNEK RIVER, NOATAK RIVER, NUSHAGAK RIVER, PORCUPINE RIVER, SNAKE RIVER, TANANA RIVER, WOOD RIVER, AND YUKON RIVER

Ref: (a) COMDTINST 16210.1C
(b) 33 C.F.R. Part 2

1. By memorandum dated 5 May 1971, the Coast Guard asserted jurisdiction over subject rivers on the basis that they are "navigable in fact . . . by reason that certificated vessels and/or operators engage in marine commerce on these rivers." The memorandum did not specify limits of navigability for these rivers, however. I have, therefore, decided that it is appropriate to reevaluate the issue of navigability of these rivers, both to confirm their use as highways for commerce and to establish limits of navigability.

2. It should be noted that the following navigability determinations rely heavily on the "Bureau of Land Management Navigability Historical Data for Alaska" (hereinafter "BLM Navigability Data"), a collection of research notes about specific waterbodies in Alaska that was compiled by the University of Alaska, Arctic Environmental Information and Data Center, under contract to the Bureau of Land Management. A microfiche copy of the BLM Navigability Data is maintained in the Seventeenth District Legal Office.

3. Navigability determinations for subject rivers are as follows:

a. CHENA RIVER - The BLM Navigability Data reveals substantial historic commercial use of the lower Chena River (i.e., from its mouth to the city of Fairbanks). This use includes operation of the sternwheeler DISCOVERY. Although there is some evidence of historic commercial use of the upper Chena River for mining, trapping and logging, the extent of this use is unclear. Based on the foregoing, I find that the Chena River is a navigable water of the United States from its mouth at the Tanana River (the navigability of which is addressed below) to the city of Fairbanks, but decline to make any finding as to the navigability of the Chena River above the city of Fairbanks.

b. KENAI RIVER - The BLM Navigability Data reveals some historic commercial use of the Kenai River from its mouth to Cooper Landing. This use includes mining, fishing, and transportation of people and goods. In addition, I have been

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advised by personnel of Coast Guard Marine Safety Office Anchorage that there are currently a substantial number of commercial fishing guides operating small power boats in the Kenai River from its mouth to and including Skilak and Kenai Lakes. Based on the foregoing, I find that the Kenai River is a navigable water of the United States from its mouth in Cook Inlet to and including Kenai Lake, but decline to make any finding as to the navigability of the Kenai River above Kenai Lake.

c. KOBUK RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Kobuk River from its mouth to the village of Kobuk. This use includes shipment of goods by B & R Tug and Barge. Based on the foregoing, I find that the Kobuk River is a navigable water of the United States from its mouth in Hotham Inlet to the village of Kobuk, but decline to make any finding as to the navigability of the Kobuk River above the village of Kobuk.

d. KUSKOKWIM RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Kuskokwim River from its mouth to the town of McGrath. This use includes shipment of goods by Northern Commercial Co., Alaska Rivers Navigation Co., McGrath Kuskokwim Freight Service, and Snow Transportation Co. Based on the foregoing, I find that the Kuskokwim River is a navigable water of the United States from its mouth in Kuskokwim Bay to the town of McGrath, but decline to make any finding as to the navigability of the Kuskokwim River above the town of McGrath.

e. KVICHAK RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Kvichak River to and including Iliamna Lake. This use includes shipment of goods by Bristol Bay Commercial, Inc. Based on the foregoing, I find that the Kvichak River is a navigable water of the United States from its mouth in Kvichak Bay to and including Iliamna Lake.

f. NAKNEK RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Naknek River from its mouth to the town of King Salmon (approximately 18 miles from the mouth). The BLM Navigability Data also indicates that the Naknek River is subject to tidal influence up to 25 miles from the mouth. Based on the foregoing, I find that the Naknek River is a navigable water of the United States from its mouth in Kvichak Bay to mile 25, but decline to make any finding as to the navigability of the Naknek River above mile 25.

g. NOATAK RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Noatak River from its

mouth to the village of Noatak. This use includes shipment of goods by B & R Tug and Barge. Based on the foregoing, I find that the Noatak River is a navigable water of the United States from its mouth in Kotzebue Sound to the village of Noatak, but decline to make any finding as to the navigability of the Noatak River above the village of Noatak.

h. NUSHAGAK RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Nushagak River from its mouth to the village of Koliganek. This use includes shipment of goods by barge and boat. Based on the foregoing, I find that the Nushagak River is a navigable water of the United States from its mouth in Nushagak Bay to the village of Koliganek, but decline to make any finding as to the navigability of the Nushagak River above the village of Koliganek.

i. PORCUPINE RIVER - The BLM Navigability Data reveals substantial historic commercial use of the Porcupine River throughout its length in Alaska and into Canada. This use includes barging of cargo from Fort Yukon, Alaska, to Old Crow, Canada. Based on the foregoing, I find that the Porcupine River is a navigable water of the United States for its entire length in Alaska.

j. SNAKE RIVER - The BLM Navigability Data provides little evidence of historic commercial use of the Snake River above its mouth at the city of Nome. Based on the foregoing, I decline to make any finding as to the navigability of the Snake River.

k. TANANA RIVER - The BLM Navigability Data reveals substantial historic commercial use of the lower Tanana River (i.e., from its mouth to the Chena River confluence). This use includes shipment of goods by YUTANA Barge Lines. Although there is some evidence of historic commercial use above the Chena River confluence, the extent of this use is unclear. Based on the foregoing, I find that the Tanana River is a navigable water of the United States from its mouth at the Yukon River (the navigability of which is addressed below) to the Chena River confluence, but decline to make any finding as to the navigability of the Tanana River above the Chena River confluence.

l. WOOD RIVER - The BLM Navigability Data reveals some historic commercial use of the Wood River throughout its entire length. This use includes shipment of supplies, fishing, and logging. The BLM Navigability Data also indicates that the Wood River is subject to tidal influence throughout its length. Based on the foregoing, I find that the Wood River is a navigable water of the United States for its entire length.

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m. YUKON RIVER - As reflected in the BLM Navigability Data, the Yukon River has historically been used as a highway for substantial commerce throughout its length in Alaska and into Canada, and continues to be so used today. This fact is well established, and both the U.S. Army Corps of Engineers and the Bureau of Land Management consider the Yukon River navigable for its entire length in Alaska. Based on the foregoing, I find that the Yukon River is a navigable water of the United States for its entire length in Alaska.

4. The above navigability determinations represent the Coast Guard's opinion as to the extent of its own jurisdiction and should not be construed to represent an opinion as to the extent of the jurisdiction of the United States, which can be determined only by judicial or legislative process. These determinations are subject to change based upon the discovery of new facts or subsequent judicial or Congressional action.

D. E. CIANCAGLINI
Rear Admiral, U.S. Coast Guard
Commander
Seventeenth Coast Guard District

Copy: COMDT (G-LMI)