

AP/AL: Appropriation **Project Type:** Planning
Category: Development
Location: Statewide **Contact:** Bob Loeffler
House District: Statewide (HD 1-40) **Contact Phone:** (907)269-8625
Estimated Project Dates: 07/01/2005 - 06/30/2007

Brief Summary and Statement of Need:

This project would allow the Department of Natural Resources, Division of Mining, Land and Water (DMLW) to receive federal funds from the US Department of the Interior, Bureau of Land Management (BLM) for the purpose of researching and preparing navigability reports for navigable waters in Alaska. The state will use these reports to prepare and submit to the BLM applications for Recordable Disclaimers of Interest for particular waterbodies. These disclaimers are a legal land title document that removes a potential cloud on the state's ownership of these rivers that were acquired at Statehood.

Funding:	<u>FY2006</u>	<u>FY2007</u>	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>	<u>Total</u>
Fed Rcpts	\$1,500,000						\$1,500,000
Total:	\$1,500,000	\$0	\$0	\$0	\$0	\$0	\$1,500,000

<input type="checkbox"/> State Match Required	<input checked="" type="checkbox"/> One-Time Project	<input type="checkbox"/> Phased - new	<input type="checkbox"/> Phased - underway	<input type="checkbox"/> On-Going
0% = Minimum State Match % Required		<input type="checkbox"/> Amendment	<input type="checkbox"/> Mental Health Bill	

Operating & Maintenance Costs:

	<u>Amount</u>	<u>Staff</u>
Project Development:	0	0
Ongoing Operating:	0	0
One-Time Startup:	0	0
Totals:	0	0

Additional Information / Prior Funding History:

An RPL was approved by LB&A on September 28, 2004 for \$500,000 (ADN #10-5-5046).

Project Description/Justification:

This project is part of DNR's mission to defend and assert the State's ownership and rights to navigable and public waters, thereby allowing access for economic development and use of the state's land and resources. Through this CIP, DNR will conduct research needed to assert state ownership of navigable waters through the federal Recordable Disclaimer of Interest process.

The state owns the bed of most navigable waters in Alaska. These were acquired by the state at Statehood in 1959. However, there is no easy method to determine what water bodies are navigable and therefore owned by the state, and there is no easy method to settle title disputes concerning navigable waters. Until 2003, the only method to resolve this question was for the state to file Quiet Title action in the courts, usually against the federal government. Quiet Title has been established for only 13 waterbodies statewide.

In January 2003, the Department of Interior adopted new regulations that allow BLM to issue Recordable Disclaimers of Interest for navigable waters. The state must submit applications to the BLM. The state applied for such determinations on 16 rivers and 10 lakes in FY 04. As of November 2004, the BLM had issued disclaimers for six rivers and two lakes, including Lake Iliamna, the largest lake in Alaska. DNR, working with the Department of Fish and Game (ADF&G) and the Attorney General's office, intends to file on 25-50 additional waterbodies in FY 06.

To prepare these applications, DNR is required to conduct extensive research into the historical use, hydrology, and land status of each waterbody. Maps and a legal description must be prepared for each waterbody. Finally, once an application is submitted to the Department of Interior, DNR and ADFG staff must respond to requests for additional information from BLM and respond to numerous public inquiries about the applications. Research needed to support this effort is funded through this CIP. DNR must also pay BLM's processing costs and publish and pay for public notices, although these costs are funded from the operating budget.

The number of waterbodies that the state will apply for will depend on several factors, including: 1) what information is found to be available to support applications, if data is not readily available fewer applications will be filed as staff will need to conduct more research; 2) the complexity of the waterbody, for example, preparing the map and legal description for the Yukon River will be time consuming due to the length of the river; 3) the relative degree of cooperation the state receives from the Department of Interior; and 4) the level of controversy associated with the state's applications.

Why is this Project Needed Now:

For many years the state has been working to gain clear title to the beds of navigable waters. This has primarily been through Quiet Title filings in federal court and by review of BLM land conveyance decisions. This approach has been expensive and the results, while generally positive, have resulted in definitive navigability determinations on only a handful of waterways. The combination of BLM's 2003 regulation change, a Secretary of Interior who is willing to work with the state to resolve this issue, and the availability of federal funding for research, makes this an ideal time to pursue this project. The project will help clear title to the beds of navigable waters and affirm the state's ownership of these waterbodies.

Specific Spending Detail:Line Item Expenditures:

Personal Services: \$525.0 - 1 FT NRM I to coordinate the project, including work done under contracts and RSA by ADFG staff @ 75./year x 4 years = \$300.; ¾ time of Hydrologist II @75.0 X 4 years = \$225.

Travel: \$ 40.0 - travel to Fairbanks and elsewhere to review files, some fieldwork

Services: \$ 905.0 - project costs and contracts with private sector or University to research navigable waters including historical use and hydrologic information for rivers and lakes. RSA to ADFG for their share of the work and mapping.

Commodities: \$ 15.0 - general office supplies

Capital Outlay: \$15.0 - computer, office equipment

PROJECT TOTAL: 1,500.

Project Support: US Department of Interior; Alaskan boating, fishing, and other public who use rivers and lakes; Alaska Outdoor Council; Territorial Sportsmen; Alaska Miners Association; certain ANCSA corporation who wish to see title issues regarding ownership of navigable waters in their areas resolved.

Project Opposition: Possibly certain ANCSA corporations and tribal groups that dispute state ownership of specific waterbodies, Trustees for Alaska

State Match Required: No