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Governor Michael J. Dunleavy
STATE OF ALASKA

April 26, 2022

The Honorable Deb Haaland
Secretary
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Secretary Haaland and Secretary Vilsack:

Last year, we announced our Unlocking Alaska Initiative to settle, once and for all, one of the fundamental promises of statehood, namely the acknowledgement of state ownership of submerged lands underneath navigable-in-fact and tidally-influenced waters statewide.

As you know, Alaska owns the submerged lands below the ordinary-high-water mark of all navigable-in-fact waters and below the mean-high-tide line of all tidally influenced waters within its borders pursuant to the Equal Footing Doctrine of the United States Constitution, *U.S. Const. art. IV, § 3, cl. 1*, the Federal Submerged Lands Act, *43 U.S.C. § 1301 et seq.*, and the Alaska Statehood Act, *72 Stat. 339, Pub. Law 85-508 (1958)*. This includes submerged lands within most federal areas across the State, particularly within most federal conservation system units.

We launched our Unlocking Alaska Initiative to remedy the status quo that has existed for too long and that is characterized by federal administrative red tape, bad faith, dilatory tactics and foot-dragging that have ignored promises made to Alaska at the time of statehood and have worked to undermine the best interests of all Alaskans.

Bolstered by the two unanimous opinions in the *Sturgeon* litigation, *see Sturgeon v. Frost*, 136 S. Ct. 1061 (2016) [*Sturgeon I*]; *Sturgeon v. Frost*, 139 S. Ct. 1066 (2019) [*Sturgeon II*], we have decided that 63 years is long enough to wait for what was promised, and we have determined to act boldly to confirm what rightfully belongs to the citizens of Alaska. I believe that it is in the

best interests of the public to work together, if possible, as adjoining landowners and land managers within federal conservation system units and elsewhere when appropriate.

To that end, when launching this initiative one year ago, we sent correspondence to you seeking to work cooperatively to resolve any potential ambiguity regarding state ownership of submerged lands underneath navigable-in-fact and tidally influenced waters within federal areas.

As first steps, we proposed that federal land managers provide us with an inventory of all federal infrastructure (docks, etc.) that have been constructed on state submerged lands without state permit or authorization; a listing of all pending permits and authorizations that federal authorities have improperly issued to commercial operators and others to use state submerged lands and the waters flowing over them that are subject only to state management and control; and a listing of all federal regulations that improperly seek to govern use of state submerged lands and the waters flowing over them that are subject only to state management and control.

To date, we have received nothing whatsoever in response to our requests. Instead, federal land managers continue to resist implementation of the *Sturgeon* decisions; continue to ignore state ownership, management and control of submerged lands underneath navigable-in-fact and tidally influenced waters in federal areas; and continue with the status quo of federal overreach and obfuscation of state sovereignty.

As a result, we have today taken the following actions:

- Alaska has filed suit pursuant to the Federal Quiet Title Act to remove federal clouds from state title to the submerged lands underneath the Mulchatna River, the Chilikadrotna River, Twin Lakes and Turquoise Lake that are situated within the borders of Lake Clark National Park and Preserve. The National Park Service touts these waters as being boatable by canoe, kayak, and raft. Clearly, there can be no question that these waters are navigable-in-fact.
- We have served the requisite 180-day notice pursuant to the Federal Quiet Title Act of our intent to sue to remove federal clouds from state title to Mendenhall Lake and Mendenhall River within the Tongass National Forest. Currently, the Forest Service improperly prohibits state-permissible uses of these waters, unlawfully restricting Alaskans from the use and enjoyment of their submerged lands and state-managed waters.
- And, we have begun issuing notices of trespass and demands to cease-and-desist to federal land managers to address instances where federal infrastructure has been constructed on state submerged lands without permit or authorization, and where attempted federal management and permitting of activities occurring on state submerged

The Honorable Deb Haaland
The Honorable Tom Vilsack
April 26, 2022
Page 3 of 3

lands and the waters flowing over them are directly at odds with governing state law. For example, today the State has demanded that the National Park Service remove its unpermitted docks from state-owned submerged lands at Crescent Lake and has demanded that the National Forest Service cease its planned construction of new docks on state-owned submerged lands in Mendenhall Lake.

We remain willing to work with you constructively to find solutions that are in the best interests of Alaskans, but now is the time for action, not more non-committal promises and hollow assurances. We are moving forward boldly; we hope that you will work with us to recognize what has been state property for 63 years: Alaska's submerged lands.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Dunleavy", is written over the word "Sincerely,".

Mike Dunleavy
Governor