

# MEMORANDUM

## State of Alaska Department of Transportation & Public Facilities

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TO: Patty Miller  
Design

DATE: March 29, 1988

FILE NO:

TELEPHONE NO: 474-2413

FROM: John F. Bennett  
Right of Way Engineering Supervisor  
Northern Region

SUBJECT: Boundaries of Navigable  
Waters

After our discussion on the location of the ordinary high water line the other day, I pulled out a few items that may be of interest to you. This information only relates to non-tidal boundaries such as we might find at Allakaket, Minchumina, or Rampart.

1. The first attachment is from a May 1987 document from the Department of Natural Resources (DNR) titled "Policies and Procedures on Ownership and Management of Navigable and Public Waters". The paragraph on "Boundaries of Navigable Waters" states that the Alaska Supreme Court has determined the ordinary high water mark to be the boundary between public and private ownership.

2. The second attachment is copies from the Alaska Administrative Code 11AAC.53 "Natural Resources". See 11AAC53-120 "Technical Survey Standards" and 11AAC53.900 "Definitions" for definitions of "Ordinary High Water Mark" and methods of determination.

3. The third attachment is an excerpt from a book titled "Water Boundaries" by George M. Cole. This book offers detailed information on methods for the determination of the ordinary high water mark.

Allakaket, as well as all of the other airports bounding on non-tidal bodies of water should have a field determination of the ordinary high water line if we want our property plans to reflect anything close to reality. As I mentioned the other day, our current options consist of plotting the meanders of the original survey, many of which are 30 years old or older, or, plotting the meanders from aerial photos. In either case, a realistic ordinary high water line cannot be accurately determined. Typically we try to note that the meander line shown on the property plan represents a "potential claim by accretion", however, should that claim be contested, we would have nothing to stand on until a field determination was made.

Even a field determination of the ordinary high water line could be subject to some debate. I polled the DNR regional surveyor and a local private surveyor with regard to situations similar to Allakaket and received diametrically opposed answers. DNR's policy would be that if the overflow from breakup covers the gravel bar even for a short period, and even if there is vegetation to a certain extent, the bar would be considered to be below the ordinary high

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water line and therefore under state ownership. The private surveyor felt that flooding during breakup was not an ordinary condition and that most of the gravel bar may vest to the upland owner.

Most of us inland surveyors do not have much experience with tidal conditions, however, should you wish to have a complete copy of DNR's navigable water policy or you would like to borrow my "Water Boundaries" book for further information, just give me a call.

JFB/prs

Attachments: as stated