

THE BIZARRE STORY OF CAMPBELL LAKE, THE PRIVATE

LAKE THAT ISN'T

**An Alaska Landmine Special Feature by Jeff Landfield and
Paxson Woelber**

SEPTEMBER 20, 2019

It all started because Alaska Landmine Creative Director Paxson Woelber just wanted to go packrafting:

“A couple years ago, a friend and I set out to float Campbell Creek. We dropped a car at the cul-de-sac on Canary Drive, right where the creek enters Campbell Lake. As we were trying to drive away, a resident walked in front of my car and blocked me in. He signaled for me to roll down my window. He told me that this was a ‘private

street' with no public parking, and that Campbell Lake was a private lake. He said that regardless, the lake was closed to all recreational boating because it was a floatplane base, and instructed us to park higher up on the creek. I didn't argue: the guy had an APD cruiser in his driveway and seemed to take the issue pretty seriously. And we had no intention of paddling in the lake anyway. So we moved the car.

As it turned out, he was partly right. I later found that accessing the creek from the Canary cul-de-sac would require that we cross a ribbon of private property that narrows down to a couple feet (does stepping *over* private property count as trespassing? That might be a fun question for a law school exam). And like most people in Anchorage I'd always been told that Campbell Lake was private. Fair enough. But there was *absolutely no way* that this ordinary Anchorage street was a 'private street,' and a quick Google Earth search showed that nearly every home on Campbell Lake has its own fleet of motorboats, kayaks and other recreational watercraft. The bravado and needless dishonesty really bugged me.

Much later, on a whim, I e-mailed the Alaska Department of Natural Resources to ask about public use of Campbell Lake. I expected a terse e-mail confirming that the lake was private. Instead, I got nothing. I brushed the whole thing off, when I unexpectedly received an email from David Ryland at the Alaska Department of Fish and Game. The letter began 'At your request, Alaska Department of Fish and Game has examined the current status of public access to Campbell Lake....'

As Jeff would say, this is when things started to get *very loose...*"

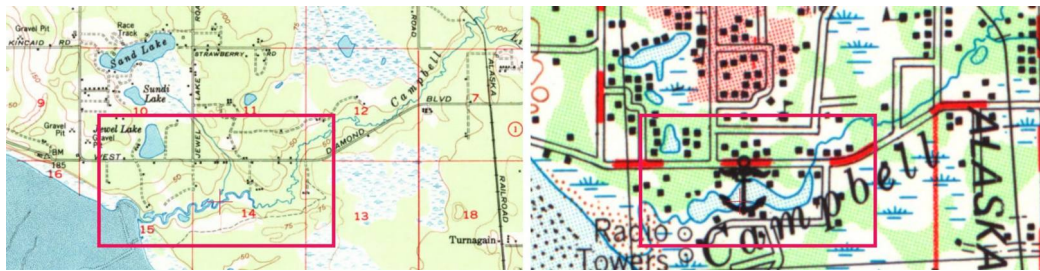


THE CREEK

Campbell Creek originates at a fragment of alpine glacier tucked into the north aspect of Williwaw Peak. The north fork of the creek dives into a deep canyon as it leaves the Chugach Mountains, and the two forks of the creek meander through the Campbell Tract

greenbelt before uniting at the end of Piper Street, a few blocks from the UAA Campus. From there the creek winds eight miles through urban Anchorage before spilling into Campbell Lake, and then returns to a single channel as it enters Turnagain Arm. Campbell Creek is the second-largest waterway in the Anchorage area, after Ship Creek. The Dena'ina called it *Qin Cheghitnu*, or “Crying Ridge Creek.”

By the early 1950s, the growing city of Anchorage began to encroach on Campbell Creek. In 1959, local developer David Alm used heavy machinery to construct an earthen dam at the mouth of Campbell Creek, causing the creek to flood its estuary and create the body of water we now call Campbell Lake.



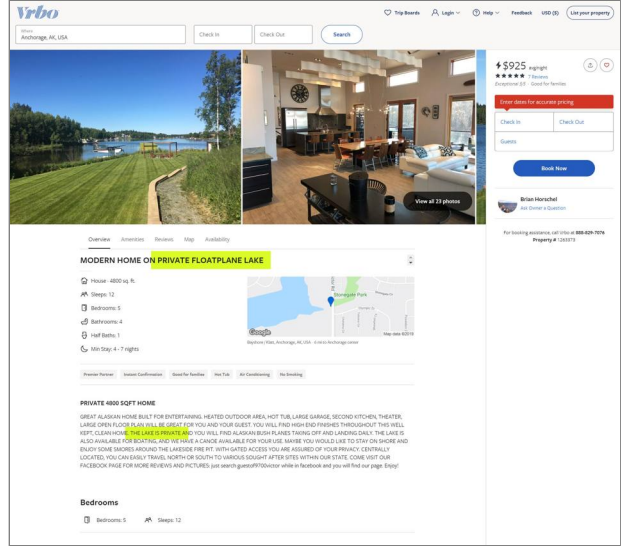
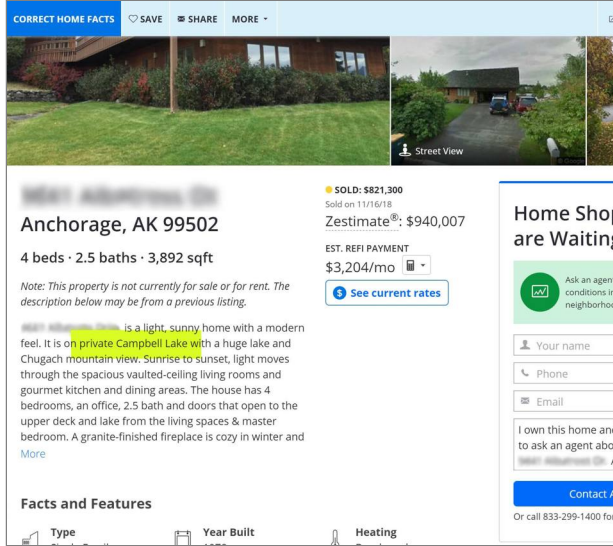
Historical USGS maps of the Campbell Lake area, showing the creation of Campbell Lake. 1952 map at left, 1962 map at right.

Alm and his business partner, George McCullough, had bought up most of the surrounding homestead plots, and this new lake—now arguably the largest in Anchorage—dramatically increased the value of the land. Today, Campbell Lake is rimmed with mansions and float planes and is home to some of the most powerful and wealthy residents in the state. A state senator, oil company executives, doctors, business leaders, and would-be media tycoons live along its shore. When President Obama visited Alaska he attended a dinner party at the lakeside estate of then-Alaska Dispatch News publisher Alice Rogoff. The President and guests dined on razor clams in white wine reduction and an *amuse-bouche* of oysters, while federal agents patrolled Campbell Lake’s murky waters.



PUBLIC NOT WELCOME

or decades, well-heeled homeowners living on Campbell Lake have protected it as an exclusive private playground. There is no developed public access, and members of the public who inquire about the lake are often told told that they are not welcome. Real estate listings frequently refer to Campbell Lake as a private lake.



Real estate listings for Campbell Lake homes. The listings describe homes on “private Campbell Lake” and claim “the lake is private.”


The belief that Campbell Lake is a private lake without public access is so ubiquitous that even individuals and organizations who work on public access issues frequently repeat it as fact. In an April 11, 2016 article, Anchorage journalist Craig Medred, who has been party to historic litigation regarding public lands access over railroad easements, refers to Campbell Lake as a “private lake.” The October 2012 Campbell Creek Estuary Natural Area Master Plan, a planning document for a nearby city park compiled in partnership with the conservation organization Great Land Trust, states that there is “No Public Access” to Campbell Lake.



At left, screenshots showing Craig Medred describing Campbell Lake as a “private lake.” At right, map from the 2012 Campbell Creek Estuary Natural Area Master Plan map stating that there is “No Public Access” to Campbell Lake.

The status of the lake has clearly frustrated some Anchorage residents, especially those who live near the lake yet find themselves barred from using it. On Google Reviews and TripAdvisor, the lake has a smattering of one-star reviews:


Reviews of Campbell Lake from Trip Advisor and Google Reviews




Nicole Brumlow
1 review

★☆☆☆☆ a year ago

Our tax dollars are to stock a lake that doesnt have public access


 1




Jack Daniels
Local Guide · 190 reviews · 1,220 photos

★☆☆☆☆ 2 years ago

No real public access to fish or play on the lake it is a stocked lake but I guess it's just for the privileged few that own property sad to think we pay for there privet lake to be publicly stocked with game fish we can't access 😞

 6





Reviewed April 15, 2012


Can't actually get there

Property owners have prohibited public access to this public lake.

Date of experience: September 2011

[Ask AK_travelerAnchorage about Campbell Lake](#)

 36  21





Reviewed December 29, 2011

Private Access only.

Private Access only. We lived a few blocks away and couldn't use it. It was nice to have float planes and helicopters look down on us in our backyard, though.

[Ask mariainak about Campbell Lake](#)

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Campell Lake reviews from Google Reviews and Trip Advisor.

We couldn't find any authoritative information about lake access online so we called Hoffman and Associates, an Anchorage real estate company that manages Campbell Lake Owners Inc., the homeowners association for Campbell Lake residents. The man who answered the phone identified himself as Leo. The conversation went as follows:

Alaska Landmine: *"Is there any public access to Campbell Lake?"*

Leo, Hoffman and Associates: *"No, there sure isn't."*

AL: *"There's no easement or other legal access to the lake?"*

H&A: *"No. It's a privately owned lake."*

AL: *"So the HOA owns the lake itself?"*

H&A: *"Right."*

AL: *"Would it be legal to boat into the lake from Campbell Creek?"*

H&A: *"...what company are you with?"*

In a subsequent call, Hoffman and Associates refused to share the HOA covenants or disclose the names of board members so that we could request a comment. We followed up with an email to Leo on September 16, 2019:

Can you please forward this to the board of Campbell Lake HOA. Per our phone call, I am inquiring about public access and public use of Campbell Lake...

The e-mail was not returned.



NAVIGATING ALASKA'S WATERWAYS

The [Constitution of the State of Alaska](#) was adopted by the Constitutional Convention on February 5, 1956, ratified later that year by popular vote, and became the law of the land at statehood, January 3, 1959. Delegates to the Constitutional Convention were keenly aware that an appealing constitution would aid Alaska's bid for statehood, and included many

measures and rights intended to benefit the general public. These included unprecedented public ownership of natural resources (commonly referred to as “owner-state” provisions) and the right to access to public lands, including navigable waters:

Article VIII, § 14: Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

The legal definition of navigable waterways in Alaska, as adopted by the legislature, is laid out in [Sec. 38.05.965](#).

(14) “navigable water” means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdiction that is navigable in fact in any season, whether in a frozen or liquid state, and for any useful public purpose, including water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes.

In practice, the State of Alaska has vigorously asserted and defended its broad definition of navigable waters. Broadly speaking, according to the [State Policy on Navigability](#) a body of water is considered navigable if it has been, or could be, navigated for any reasonable purpose and via nearly any form of transportation, including floatplanes. The State has not been shy about defending its interpretation of navigability in court against powerful corporations and other government entities. Most recently, the State supported a lawsuit brought by John Sturgeon against the federal government after Sturgeon was fined for operating a hovercraft on the Nation River in the Yukon Charley Preserve. The case went to the United States Supreme Court—twice—where Sturgeon ultimately won in a unanimous decision. As Alaska Department of Fish & Game (ADF&G) commissioner Doug Vincent-Lang stated after the decision, “This is more than a state rights issue, it is about life in Alaska.”

Which brings us to the e-mail from ADF&G regarding the status of Campbell Lake. A word of caution: this gets weird, and then it gets weirder. Buckle up.



THE PRIVATE LAKE THAT ISN'T

The email from David Ryland was unambiguous: Campbell Lake is a public lake. As Ryland explained in his March 18, 2019 message:

“While the HOA owns the submerged lands, Campbell Lake would be considered a ‘navigable water’ and a ‘public water’ under state law (AS 38.05.965). As such, the public would have a right of access to the waterbody unless the state has determined that regulating or limiting access is necessary for some public purpose or other beneficial use (AS 38.05.127(2)).”

The Campell Lake HOA asserts ownership of the bed of Campbell Lake, and claims that this ownership grants them the right to control access to, and use of, the surface of the lake. But according to the State of Alaska, the ownership of the bed underlying navigable water has no bearing whatsoever on the public’s right to utilize that water. Indeed, one might argue that *this is the entire point* of navigable waters laws in the first place.

What about access to the lake? The Campell Lake HOA maintains that regardless of the lake’s status, the fact that it is fully encircled by private property means that, regrettably, the public is de-facto barred from it either way.

But according to the State, access exists.



SECTION LINES

Like much of the country, the State of Alaska is divided into square mile blocks called sections. Together, the sections form a giant grid over the state, and the lines on the grid are called section lines. Section line easements were created in order to facilitate the development of transportation infrastructure and provide access to important resources. According to the Department of Natural Resources (DNR):

A section-line easement is a public right-of-way, 33, 50, 66, 83 or 100 feet wide, that runs along a section line of the rectangular survey system.

Section line easements in Alaska fall under Revised Statute 2477, commonly referred to as RS 2477. According to DNR:

All 33- and 66-footwide section-line easements were acquired by the state under R.S. 2477, regardless of whether trails have ever been developed along them. Also, some 50- and 100-foot-wide easements along section lines have narrower R.S. 2477 rights-of-way “inside” them. An R. S. 2477 right-of-way is a type of public easement that the State of Alaska acquired under long-standing federal law.

Section line easements are dedicated public access corridors, and often contain roads, highways, trails, and other transportation infrastructure. Most of Anchorage’s major roadways, including Northern Lights, Tudor and Dimond fall on the one-square-mile section line easement grid. Observant Anchorage residents may have wondered why Lake Otis, the Old Seward Highway, and Elmore all curve slightly to the east as they pass Dowling Road southbound. The answer has nothing to do with topography; instead, it is the result of a slight offset between adjacent sets of section line grids. Section line easements are so powerful that they can bend the contours of a city itself.



Map of Anchorage showing roads curving to follow section line easements.

But section line easements don't only contain important public infrastructure projects. Section line easements typically allow minimally-restricted public access, including the right of a member of the public to build or improve a trail or road along the easement.

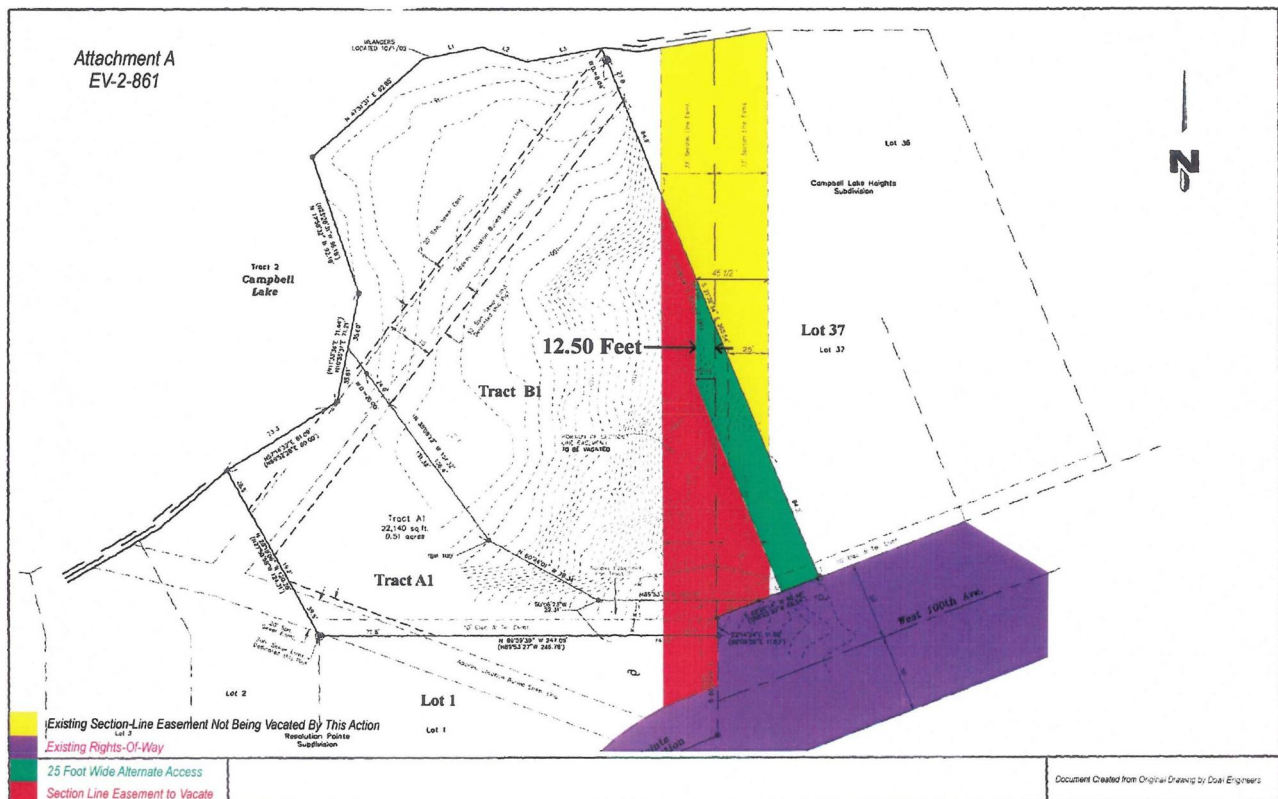
See where this is going?



PUBLIC ACCESS TO CAMPBELL LAKE

According to the March 18, 2019 email from David Ryland at ADF&G, the public has a right to access Campbell Lake via a pedestrian easement and a modified section line easement that connect the lake with the west end of 100th Ave. The resulting easement crosses two parcels of developed private property:

“Current records show one existing easement that could provide direct, overland access to the lake. The attached documents provide more information regarding the status of this easement and its location. As you can see from the attached map, this easement crosses two private parcels and combines a 25-foot pedestrian easement and a remnant of a section line easement. Recent satellite imagery indicates that neither easement is marked nor shows any evidence of current public use. Anyone planning to use the easement is advised to contact the current landowners prior doing so.”



*Map showing public access to Campbell Lake. Public access easements are shown in yellow and green.
Courtesy DNR.*

Easements can be difficult for laypeople to discover, and real estate listings often omit mention of them for obvious reasons. It is not uncommon for private landowners to purchase property only to realize many years later that it abuts or contains an easement. However, this is not the case in this situation. The owners of the first property crossed by the easement, now-Senator Natasha von Imhof and husband Rudi von Imhof, are fully aware of the easement. Some time in 2004 or early 2005, before undertaking a homebuilding project on their lakeside property, the von Imhofs applied to have the public-access section line easement eliminated.

Landowners can petition for an easement to be removed via a process called “vacation.” According to DNR:

Because a vacation means giving up a state-owned access right, DNR cannot approve it unless DNR determines that the vacation is in the state’s interest, and that other access is available that meets standards set by state laws and regulations. See 11 AAC 65.065. DNR’s general policy is that the replacement access must be equal to or better than the access provided by the section-line easement.

In a letter dated February 25, 2005, ADF&G commented, “We would be opposed to the vacation of this section line easement without verification of legal alternate public access in the same vicinity.” After some time the State reached a compromise with the von Imhofs: the State would vacate the 66-foot-wide section line easement crossing the von Imhof property, but in its place would create a permanent 25-foot-wide pedestrian easement on the east side of the property. According to DNR, “Reducing the scope of this easement to a 25’ pedestrian easement will maintain the public’s ability to access the lake...” DNR justified the arrangement as being in the best interest of the state by arguing that, “The proposed alternative access will utilize a more topographically feasible route.”

During the required public comment period on DNR’s decision, Anchorage resident David C. Mesiar made a statement that the State summarized as follows:

“Giving up public access land that may be desired at some point in the future for recreational users is not in the best interest of the State... the public should not give up designated access in order to accommodate the property owner’s desire for a slightly better homesite.”

The Alaska Landmine was able to contact Mesiar, who was surprised to hear that a public easement to Campbell Lake still exists. Mesiar offered an explanation for his decision to comment on the easement vacation request:

“It was my feeling at the time, and still is today, that the lakes and other waterways around Anchorage should be accessible to anyone who wants to use them. I don’t believe a small number of wealthy property owners have the right to a private oasis to the exclusion of all other users. Nobody was aware of the easement, I don’t think it was maintained or signed as such. I thought establishment of the easement showed foresight and would be a valuable public asset and should not be given up just because the local elite wanted to maintain a private haven.”

In 2006, DNR responded to Mesiar’s comment: “This decision does not deny the public access to Campbell Lake for recreational purposes... Campbell Lake is recognized by the State of Alaska as public water.”

After deliberation, the State finalized its decision to vacate the section line easement across the von Imhof property and replace it with the proposed 25-foot pedestrian easement. However, the vacation came with conditions: the von Imhofs would have to remove any existing fences or other man-made obstructions across the new pedestrian easement, and they were prohibited from placing “No Trespassing” signs or other signs meant to deter public use. The von Imhofs agreed.

Von Imhof Section Line Vacation Request

Below are the State of Alaska’s preliminary and final decisions regarding the von Imhof easement vacation request. Click on the thumbnail to read the documents in PDF format. Documents courtesy DNR.

Preliminary Finding and Decision

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
REALTY SERVICES SECTION**

PRELIMINARY FINDING AND DECISION

Petitioners: Rudi & Natasha von Imhof, The Leonard Hyde Anchorage Residence Trust
Section-Line Easement Vacation
EV-2-861

PROPOSED ACTION:
The proposed action consists of vacating the 66-foot section-line easement (33-feet each side of the section line) within Tracts A1 & B1, Resolution Pointe Subdivision-Addition #1 (Plat No. 2002-146) and the 33-foot section-line easement within Lot 1, Block 1, Resolution Pointe (Plat No. 82-302). The proposed action is located in Sections 14 & 15, T. 12 N., R. 4 W., S. 8. Vacation of this section-line easement will allow the petitioners to utilize a preferred building site on the property. Please see Attachment A.

AUTHORITY:
AS 19.30.410, AS 38.05.035(e), AS 38.05.945, and 11 AAC 51.065

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Alaska Department of Natural Resources (DNR) have concurrent authority for approving the vacation of section-line easements.

ADMINISTRATIVE RECORD:
Department of Natural Resources Survey Case File EV-2-861 constitutes the administrative record used for the basis of this decision.

BOROUGH:
This action is located within the Municipality of Anchorage.

STATE EASEMENT INTEREST:
A 66-foot section-line easement (33-feet each side of the section line) exists within Tracts A1 & B1, Resolution Pointe Subdivision-Addition #1 (Plat No. 2002-146) and the 33-foot section-line easement within Lot 1, Block 1, Resolution Pointe (Plat No. 82-302) pursuant to 43 U.S.C. 532 and Ch. 19 S.L.A. 1923 (see Finding No. 1, page 2).

UNDERLYING INTEREST:
The petitioners, Rudi & Natasha von Imhof, and The Leonard Hyde Anchorage Residence Trust own the estate underlying the section-line easements proposed for vacation.

ALTERNATE ROUTE:
A 25-foot wide public pedestrian access easement within Tract B1 is proposed to be dedicated to provide access from West 100th Avenue to the existing 66-foot wide section line easement in the adjacent Lot 37, Campbell Lake Heights Subdivision. The proposed alternative 25-foot wide easement is more particularly described as: “Beginning at the northerly limits of the West 100th Avenue right-of-way and proceeding northwesterly along the east boundary of Tract B1, Resolution Pointe Subdivision-Addition # 1, to its intersection with a 12 ½ foot perpendicular offset distance west from the section line as shown on Attachment A.

LAND MANAGEMENT POLICIES:
Pursuant to AS 19.30.410 and 11 AAC 51.065, before any vacation, modification, or relocation of a public right-of-way, the applicants must demonstrate to the satisfaction of the department that access reasonably comparable for foreseeable uses is available.

Final Finding and Decision

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
REALTY SERVICES SECTION**

FINAL FINDING AND DECISION

Petitioners: Rudi & Natasha von Imhof, The Leonard Hyde Anchorage Residence Trust
Section-Line Easement Vacation
EV-2-861

This Final Finding and Decision complements the Preliminary Finding and Decision for EV-2-861 issued on February 10, 2006. No updates or changes to the approved Preliminary Finding and Decision have been made.

PETITIONED ACTION:
The proposed action consists of vacating the 66-foot section-line easement (33-feet each side of the section line) within Tracts A1 & B1, Resolution Pointe Subdivision-Addition #1 (Plat No. 2002-146) and the 33-foot section-line easement within Lot 1, Block 1, Resolution Pointe (Plat No. 82-302). The proposed action is located in Sections 14 & 15, T. 12 N., R. 4 W., S. 8. Vacation of this section-line easement will allow the petitioners to utilize a preferred building site on the property. Please see Attachment A.

LEGAL AUTHORITY:
AS 19.30.410, AS 38.05.035(e), AS 38.05.945, and 11 AAC 51.065

The Alaska Department of Transportation and Public Facilities (DOT/PF) and the Alaska Department of Natural Resources (DNR) have concurrent authority for approving the vacation, modification or relocation of section-line easements.

PUBLIC NOTICE AND COMMENT:
Public Notice, pursuant to AS 38.05.945, was advertised in the Anchorage Daily News on February 16, 2006 and February 23, 2006. The notice was also posted on the State of Alaska Online Public Notice website from February 16, 2006 through March 29, 2006. One comment on the proposed action was received.

Comments sent March 16, 2006 by David C. Mesiar are summarized as follows:

1. Giving up public access land that may be desired at some point in the future for recreational users is not in the best interest of the State.
2. Reduction of the easement to 25 ft from 66 ft removes a buffer zone to the private properties on both sides and removes development possibility for limited vehicle parking and snow removal.
3. The public should not give up designated access in order to accommodate the property owner's desire for a slightly better homesite.
4. Posting notices for the public to maintain awareness of flight operations would prepare recreational users for arriving and departing aircraft and aircraft owners would operate to accommodate those recreational users.
5. The boundary of the proposed easement should be properly identified, and vegetation cleared, so the public desiring access to Campbell Lake may do so confidently, without trespassing on private property.

Responses to comments sent March 16, 2006 by David C. Mesiar:

1. This decision does not deny the public access to Campbell Lake for recreational purposes. This decision ensures that an easement will remain for foreseeable access. The easement provides the public with an easement that is functionally comparable and is a reasonably equivalent alternative to the section-line easement.

In an ironic twist, it turns out that Senator Natasha von Imhof and her father, Ed Rasmuson, have been prominent supporters of John Sturgeon in his landmark navigable waterways case. On March 26, 2019, Senator von Imhof [praised Sturgeon's Supreme Court victory](#), writing "John is a friend and I congratulate him on this win for Alaska and Alaskans."

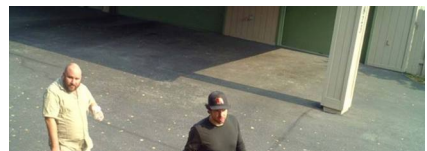
Senator von Imhof declined to comment on the record for this story.



WELCOME TO THE NEIGHBORHOOD

On August 28, 2019, Alaska Landmine Editor-in-Chief Jeff Landfield and Creative Director Paxson Woelber visited the location of the Campbell Lake public easement. From the road it was unclear whether any of the easement was blocked by fencing, but it appeared that the von Imhofs had held up their end of the agreement not to place "No Trespassing" signs. Determining the exact position of the easement would likely require a professional survey.

Afterwards, we decided to knock on the door of von Imhof's neighbor, Dr. John Frost, MD. The remaining section line easement leading to Campbell Lake crosses Frost's property, and we were curious to hear Dr. Frost's thoughts on the situation. Nobody answered the door, and we left. Some time later, the Alaska Landmine was informed that the Campbell Lake HOA had circulated an e-mail to local residents warning them of 'suspicious men' in the neighborhood. The message included surveillance camera images depicting the 'suspicious men,' who were none other than Alaska Landmine Editor-in-Chief Jeff Landfield and Creative Director Paxson Woelber. **Talk about loose!**





Surveillance camera photos of 'suspicious men' circulated by the the Campbell Lake HOA.

That's when things started to get intense. Once Campbell Lake residents learned that the Alaska Landmine was pursuing a story about the lake, several of them reached out to the Landmine insisting that the lake is private, and requested that the Landmine not publish the story. Residents told the Landmine that they "want to keep it private," and that the public had no business on "our lake." A member of the Campbell Lake HOA board told the Alaska Landmine that the HOA spends a considerable amount of money removing invasive weeds, maintaining the dam, and grooming winter ski trails on the lake, and that members of the public do not deserve to benefit from these expenditures. One prominent and powerful business leader called the Alaska Landmine and stated that even if the lake were public, nobody wanted "riff raff" on it. The business leader did not specify which Anchorage residents qualified as "riff raff."



FLOATPLANE SAFETY

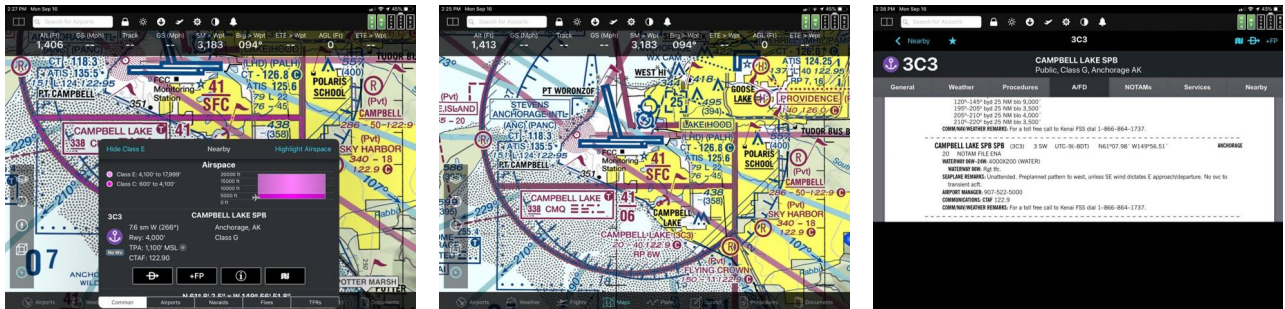
Campbell Lake homeowners repeatedly warned the Alaska Landmine that encouraging recreational use of the lake would have dire safety consequences for the public because of the lake's status as an FAA-designated seaplane base. Indeed, in his March 18, 2019 email David Ryland at ADF&G had written that "due to the lake's status as a float plane base, there may be boating restrictions on the lake."

But if recreational boating on Campbell Lake were inherently dangerous this would come as news to residents of Campbell Lake itself, who own enough personal watercraft to convincingly reenact the Dunkirk evacuation.



Google Earth imagery showing recreational watercraft on Campbell Lake. Imagery dated July 2014 and compiled by the Alaska Landmine September 16, 2019.

The Alaska Landmine contacted the FAA to ask whether the agency holds a position on the use of personal watercraft on Campbell Lake. We were told that the FAA does not. Above 600 feet, Campbell Lake is Class C Airspace; below that it is Class G (uncontrolled) Airspace. The Chart Supplement lists the Campbell Lake seaplane base as “Public.”



FAA documentation of Campbell Lake. The FAA categorizes the Campbell Lake SPB as “Public.”

For perspective on lake safety, the Alaska Landmine contacted former Representative and current Cottonwood Lake Seaplane Base Manager Lynn Gattis. Gattis told the Landmine that around the state, floatplanes and recreational users are required to—and do—happily co-exist. Countless Alaska lakes, including Sand Lake, Big Lake, Wasilla Lake, Cottonwood Lake, Finger Lake, and more host large amounts of both floatplane and recreational traffic. Pilots are responsible for making safe takeoffs and landings, and serious problems are relatively rare. Gattis was skeptical of the public safety explanation offered by Campbell Lake residents:

“Alaska’s lakes are for Alaska’s people. Is [Senator von Imhof] allowed to canoe? Is her daughter allowed to canoe? You guys, it has nothing to do with safety. It has to do with these folks using a State of Alaska lake, and deciding they own it. And they don’t.”

The insistence by Campbell Lake residents that allowing public access will create unsafe conditions could be interpreted as a genuine concern for public welfare. It could also be interpreted as a strange declaration that floatplane operators on Campbell Lake are either unable or unwilling to adhere to basic safety standards expected of pilots on every other lake in Alaska.



WHAT COMES NEXT

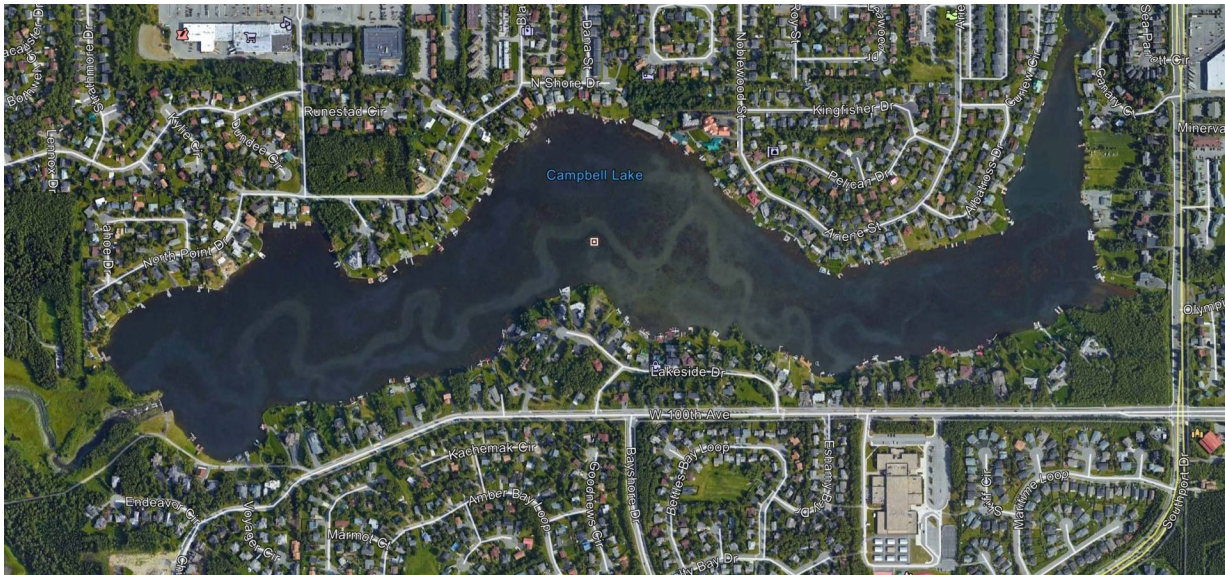
The Alaska Landmine spoke with several experts on navigable waterway law to determine what legal arguments, if any, the Campbell Lake HOA or individual landowners could employ to block public access to Campbell Lake.

1. They could argue that Campbell Creek is not a navigable waterway and therefore has no protected access. Campbell Creek is a small, shallow creek and certainly does not have the same pattern of historical use as some of Alaska’s major waterways. But as generations of happy Anchorage residents can attest, the creek is wonderfully navigable via inner tubes, packrafts, kayaks and canoes. Boating Campbell Creek has been the subject of [ADN articles](#), [trip guides](#), and [short videos](#). On a hot summer day, Campbell Creek may be the most-navigated recreational waterway in Alaska. Any argument that Campbell Creek was not enthusiastically navigated before and after statehood, by both the Dena’ina people and more recent Anchorage residents, would likely fail the “red-face-test.”

2. They could argue that the artificial nature of the lake eliminates public access. When a navigable waterway naturally expands or changes its course, title to the newly underlying land typically passes to the State. The Campbell Lake HOA seems to

believe that because Campbell Creek was flooded *intentionally* to create Campbell Lake, the underlying land did not pass to the State but *to themselves*—along with the original, navigable streambed. They furthermore seem to believe that title grants them control of the waterway itself. Preliminary research indicates little to no precedent in Alaska law for this belief.

It may be especially notable here that Campbell Lake is not a man-made offshoot of a navigable waterway or an isolated feature, but rather is an *expansion* of a historically significant waterway that was, at the time of statehood, simply a natural part of Campbell Creek. Satellite imagery clearly shows that the bed of Campbell Creek is still contained within the lake:



Google Earth imagery of Campbell Lake, July 2014.

Satellite imagery from April 2011, during breakup, shows the creek bed even more clearly:



Google Earth imagery of Campbell Lake, April 2011.

In effect, this argument would imply that widening a constitutionally-protected public access corridor can simply eliminate the public's legal right to use that corridor. This would be a bit like arguing that if a wealthy developer cleared two lots on either side of a city bike path, he could block the use of that bike path and turn the whole thing into a private polo course.

3. They could take a lawsuit to federal court. The Campbell Lake HOA could attempt to bypass the famously pro-public-access State of Alaska and take issues of navigability or lake bed ownership to a federal court, hoping for an outcome more favorable to the HOA. How a federal court would actually treat Campbell Lake is uncertain though, and federal precedent elsewhere may be of limited use: as United States Supreme Court Justice Elena Kagan wrote repeatedly in the unanimous decision on *Sturgeon*, “Alaska is different.”

It is unclear who would be party to a potential lawsuit involving access to Campbell Lake. Because of the extraordinary influence and wealth wielded by Campbell Lake residents, a legal battle could become protracted and expensive. It is conceivable that the only entity with the resources to take on the homeowners is the State of Alaska itself. As Doug Pope, an attorney who worked on the *Sturgeon* case, told the Alaska Landmine, “The major impediment is the fact that whoever decides to pursue it is gonna have to get their checkbook out.”

Of course, the residents of Campbell Lake have a fourth option: the Campbell Lake HOA could work with its members, the State of Alaska, and local stakeholders to develop public access to Campbell Lake. If an appropriate public access were created, the State would likely agree to vacate the easements crossing the von Imhof and Frost properties.



CAMPBELL LAKE

Many questions about Campbell Lake remain. Under what conditions was David Alm allowed to dam Campbell Creek and flood its wetland estuary in 1959? Why were decades of development permitted around the lake without a provision for established public access? Why has the narrative that Campbell Lake is an exclusive “private lake” gone unquestioned for six decades? A reasonable person might wonder whether the wealth and power concentrated on the lake’s floatplane-studded shore have affected the answers to these questions.

Rich or poor, everyone in Anchorage should be entitled to the quiet enjoyment of their homes. However, few would argue that *anyone* is entitled to the exclusive enjoyment of public lands—especially lands that the public has a constitutional right to access. If it is the case that Campbell Lake is a navigable waterway open to the public, then the residents have effectively (even if inadvertently) pulled off a decades-long heist of public space. As Anchorage journalist Craig Medred told the Alaska Landmine:

“It’s easy to overlook the fact that public water is public water when you’re a good and upstanding citizen who believes, or has been led to believe, you bought into an exclusive development. But the water of Campbell Creek and the dammed lake is just as public in Alaska as the water of the Nation River where John Sturgeon just fought a legal battle with the National Park Service, which also thought it had an exclusive enclave. A lot of everyday Alaskans who could never afford a home on Campbell Lake pitched in to help fund Sturgeon’s fight because they support the long-held Alaska view that public water is public.”

In a phone call, Medred noted that the Municipality of Anchorage spends an extraordinary amount of time and money evicting homeless squatter camps from public parks and greenbelts. Yet, in terms of square mileage, the Campbell Lake HOA appears to be squatting on more area than every homeless encampment in the state combined.

What, Medred asked, is the difference? 🌀

CAMPBELL LAKE SERIES

This article is part of the Alaska Landmine's coverage of Campbell Lake access

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