

State of Alaska, Municipality of Anchorage issue joint statement: Campbell Lake is a public lake

DECEMBER 9, 2019 **BY JEFF LANDFIELD AND PAXSON WOELBER**

After months of sustained public interest in Campbell Lake following the publication of [“The bizarre story of Campbell Lake, the private lake that isn’t,”](#) the State of Alaska and Municipality of Anchorage (MOA) issued a joint statement today regarding public use and access to Campbell Lake. The statement affirms that the waters of Campbell Lake “are held by the State of Alaska pursuant to the public trust doctrine for the benefit of the people,” and that members of the public have a right to access and use Campbell Lake, including the lakebed, “for any lawful use.”

According to the statement, Campbell Lake residents, who have long claimed ownership and exclusive control over the lake, are prohibited from interfering with public use:

As discussed above, the [State of Alaska] manages the waters of Campbell Lake pursuant to the public trust doctrine. Citizens are therefore entitled to use the water for recreation or any other lawful purpose. Landowners abutting the shores of Campbell Lake and CLO cannot lawfully restrict the public’s rights of use pursuant to Alaska law.

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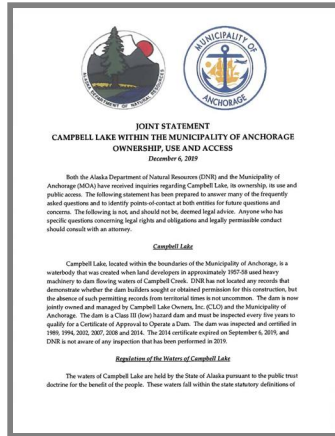
According to the statement, those who attempt to interfere with free public use of Campbell Lake may be subject to criminal charges under [AS 38.05.128](#), which prohibits the obstruction of navigable waterways.

The statement notes that there are four ways for the public to access Campbell Lake: by boating (or skiing) into it via Campbell Creek, landing in an aircraft, accessing the lake via an easement on the south side of the lake, or accessing the lake via an easement on the north side of the lake. The

document states that the Department of Natural Resources, which manages section line easements, has never authorized private obstructions in these easements.

The statement can be read in full below:

Joint Statement
Campbell Lake within
the Municipality of
Anchorage
Ownership, Use and Access
DECEMBER 6, 2019



Click on the thumbnail to read the full State of Alaska and Municipality of Anchorage joint statement in PDF format.

“Private” Campbell Lake

Campbell Lake was created when Anchorage residents David Alm and George McCullough dammed the wetlands at the mouth of Campbell Creek in the late 1950s, thereby increasing the value of land that they owned around the newly-created lake. According to the joint statement by the State and MOA, McCullough appears to have dammed the creek without a permit—a common practice at the time. Jim Strutz, a longtime local resident and friend of McCullough, told the Landmine in a September 2019 call that for years, huge mats of organics from the flooded wetland would float to the surface of the lake. According to Strutz, McCullough paddled around the lake and tied rocks to the mats to sink them back to the bottom.

Since its creation, Campbell Lake residents have vigorously asserted that the lake is privately owned and operated for the exclusive enjoyment of lakefront residents and their invited guests.

LAKE USE RULES

Campbell Lake Owners, Inc. the legal owner of Campbell Lake, a man made body of water and its dam and spillway area, adopts the following rules and regulations governing the privileges of access to the Corporate owned area by its members and guests.

ACCESS TO LAKE

Access to the lake is limited to members of the Corporation, their immediate families, and invited guests.

MEMBERS DEFINED

Members of the Corporation are those abutting property owners who have filed an application for membership and tendered the required fee of membership as set by the Board of Directors. All abutting property owners are eligible for membership as provided for in the by-laws of the Corporation.

(a)- Invited Guests:

The invited guest rule specifically precludes any interpretation of this provision for the providing of public access. It is intended guests will be accompanied by a member at all-times while using the lake, the member being charged with the responsibility of seeing that his guest abides by the

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As previously reported by the Landmine, the Campbell Lake HOA crafted numerous legal agreements designed to prevent the public from accessing or using the lake. Campbell Lake HOA and MOA legal documents dating back decades refer to Campbell Lake as a “private lake.” Meanwhile, the Campbell Lake HOA sought and received millions of dollars of public funds to rebuild the dam, dredge the lake, and engineer public utilities around the lake.

For decades, members of the public who ventured onto Campbell Lake faced harassment by some lakeside property owners. After our initial story, numerous individuals reported that they had been yelled at on the lake, told that they were trespassing, and even informed that they would be escorted off of the lake by residents.

Between 2002 and 2006, now-Senator Natasha von Imhof and husband Rudi von Imhof petitioned the State and MOA to eliminate a little-known public access easement to Campbell Lake crossing their lakeside estate. To support their petition, the von Imhofs hired DOWL Engineering Director of Planning Timothy C. Potter, who made **a number of highly questionable statements** about lakeside topography, public use of the lake, and the purpose of section line easements. The MOA supported the elimination of the easement, but the State of Alaska only agreed to modify it.

‘There’s a lot of rich and powerful people here’

For decades, individuals at both the State and MOA have occasionally questioned the “private” status of Campbell Lake.

In 1975, Department of Law Legal Intern Mike Sewright was tasked with reviewing the status of Campbell Lake during the subdivision of a lakeside tract. Sewright disagreed with a 1968 legal memorandum that, he believed, had erroneously determined that Campbell Lake was private. According to Sewright, the waters of Campbell Lake were public per both statute and the Alaska State Constitution:

addition, a substantial amount of case law has developed on the subject since 1968; these decisions suggest a re-evaluation.

For the above reasons, this Memorandum has been prepared. Upon considering both the facts and the law concerning the questions you have raised, it is now the opinion of this Department that Campbell Lake is indeed subject to public use and that the Borough may qualify subdivision approval on the condition that greater access to the lake be provided.

The above conclusions are based on the determination that under Alaska's appropriative water use laws, both constitutional and statutory, the waters of Campbell Lake are public waters subject to public recreational use. This use correspondingly creates a public right or easement in the lake bed for reasonable use incidental to the public purpose. The scope of that use has been aptly described by one court as follows:

Sewright’s memorandum appears to have been either overruled or ignored, and public access was not created at that time.

In a September 25, 2019 call, former Alaska Department of Fish and Game biologist Phil Brna told the Landmine that, decades ago, he had been tasked with reviewing permits for the Campbell Lake dam. He realized that the dam had never been permitted and that the “private” status of Campbell Lake was dubious:

“I raised [the issue] with Fish and Game leadership, I don’t even remember who I talked to at the time, but it was made pretty clear... I don’t even remember by who, ‘that that’s not something we’re gonna get involved with.’ The reason was, I think it was just implied, it was just pretty much kinda like ‘There’s a lot of rich and powerful people here, and we’re not gonna do that.’

More recently, members of the public have periodically questioned the legal status of Campbell Lake online, in comments on news articles and sites such as TripAdvisor:

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Grace E
wrote a review Aug 2013
Anchorage, Kentucky
1 contribution • 34 helpful votes

Access secret revealed

There is access. if you really want to canoe or kayak, park at the little park on the north side of Dimond blvd between northwood and Arlene. you can put a small boat in there and paddle under the bridge. just stay close to shore as planes have the right of way.

In Alaska, the public has a constitutional right to access on and use of navigable and public waters regardless of who owns the underlying bed. This right is defined in Article VIII, Section 14, of the Alaska Constitution, which states: "Free access to the navigable or public waters of the state, as defined by the

geezer 7 months ago

Some of the land that was covered by the original man-made creation of Campbell Lake was publicly-owned tidelands (owned first by the US, and then by the State). This can be verified by period aerial photos. By law, a person cannot appropriate public land for private uses under any circumstances. Therefore, because there is some public land lying under Campbell Lake, the Lake should have dedicated public access to it, or at least the right of the public to fish and boat on it. But no one in a position to lead the charge has stepped up, in the 40 years that I have been aware of the ownership issues. All it would take would be a quiet-title lawsuit, on behalf of the short-changed public.

Lynn Willis 7 months ago

Geezer,
Thank you. And if that sewer line serves customers not associated with the Homeowner's Association the MOA should only be allowed to establish and maintain a public utility with no additional

Public comments on TripAdvisor and ADN.com

Joint statement answers existing questions—and raises new ones

The joint statement made today by the State and MOA clarifies several important questions about Campbell Lake access and use. It states that the artificial nature of the lake does not alter the applicability of navigable waterway laws, and that the HOA’s claim to own the lakebed has no

bearing on ordinary public enjoyment of either the lake surface or the lakebed. It states that while lakeside residents are entitled to full private property rights, public use of the lake itself cannot constitute trespass.

In addition to answering existing questions, the statement presents new and challenging issues. The document confirms the legality of the public access easement crossing the von Imhof and Frost properties on the south side of the lake, and also notes that the easement extends to the north side of the lake, where it connects Campbell Lake with the south termination of Jewel Lake Road. It appears that a private home has been constructed in this portion of the section line easement. Municipal records indicate that the home was built in 1976.



The statement also notes that required safety inspections for the dam, which is jointly owned by the MOA and Campbell Lake HOA, have apparently not been conducted this year. The previous Certificate of Approval to Operate a Dam expired on September 6, 2019.

Although the State and MOA have now confirmed the legality of public access and use of Campbell Lake, existing access is clearly deficient for routine public use. The easement on the south side of the lake remains undeveloped and encumbered by a private float plane dock, while the easement on the north side of the lake appears to be blocked by a house.

Things are about to get REAL loose.

CAMPBELL LAKE SERIES

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

SPECIAL FEATURE

The bizarre story of Campbell Lake, the private lake that isn't

ARTICLE

Millions of public dollars spent to dam and maintain “private” Campbell Lake

ARTICLE

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ARTICLE

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