

When is a River not a River?

The Confounding Mysteries of the
ANWR Boundary

Mike Schechter – Alaska Attorney General's Office

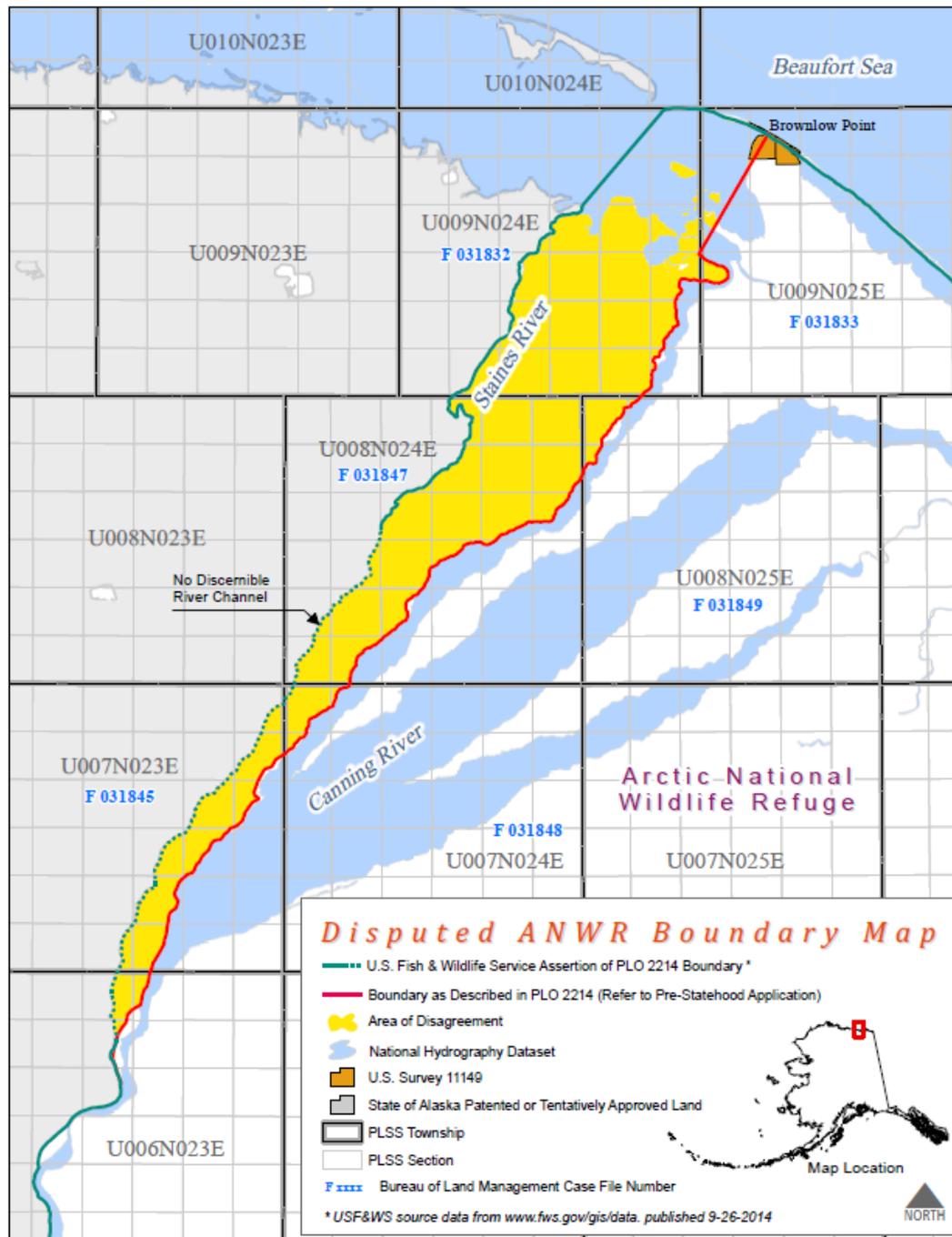
The Alaska Statehood Act

- Alaska granted 103 million acres to support the State's economy.
- Alaska's land selections are intended to ensure a broad portfolio of lands that can be put to productive use.
- What happens when choice is limited?



ANWR and State Selections





The Calls in Question?

- Beginning at the intersection of the International Boundary line between Alaska and Yukon Territory, Canada, with the line of extreme low water of the Arctic Ocean in the Vicinity of Monument 1 of said International Boundary line;
- thence westerly along the said line of extreme low water, including all offshore bars, reefs, and islands to a point of land on the Arctic Seacoast know as Brownlow Point, at approximate longitude 145° 51' W., and latitude 70° 10' N.;
- thence in a southwesterly direction approximately three (3) miles to the mean high water mark of the extreme west bank of the Canning River;
- thence southerly up the said west bank of the Canning River along the mean high water mark approximately seventy (70) miles to the mouth of Marsh Fork of Canning River....;

A wide, flat landscape of dry, brownish-green grass under a cloudy sky. The horizon is flat and distant, with a few small hills visible in the far distance. The sky is overcast with light grey clouds.

thence southerly up the said west bank of the Canning River along the
mean high water mark approximately seventy (70) miles



thence southerly up the said west bank of the Canning River along the mean high water mark approximately seventy (70) miles

A River Doesn't Run Through It?
(Or how did BLM get there?)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Alaska State Office
Division of Engineering
555 Cordova Street
Anchorage, Alaska

SPECIAL INSTRUCTIONS

Group Nos. 206, 207, 208,
209, 210, 211 and 212
Alaska

State of Alaska Selection

March 3, 1965

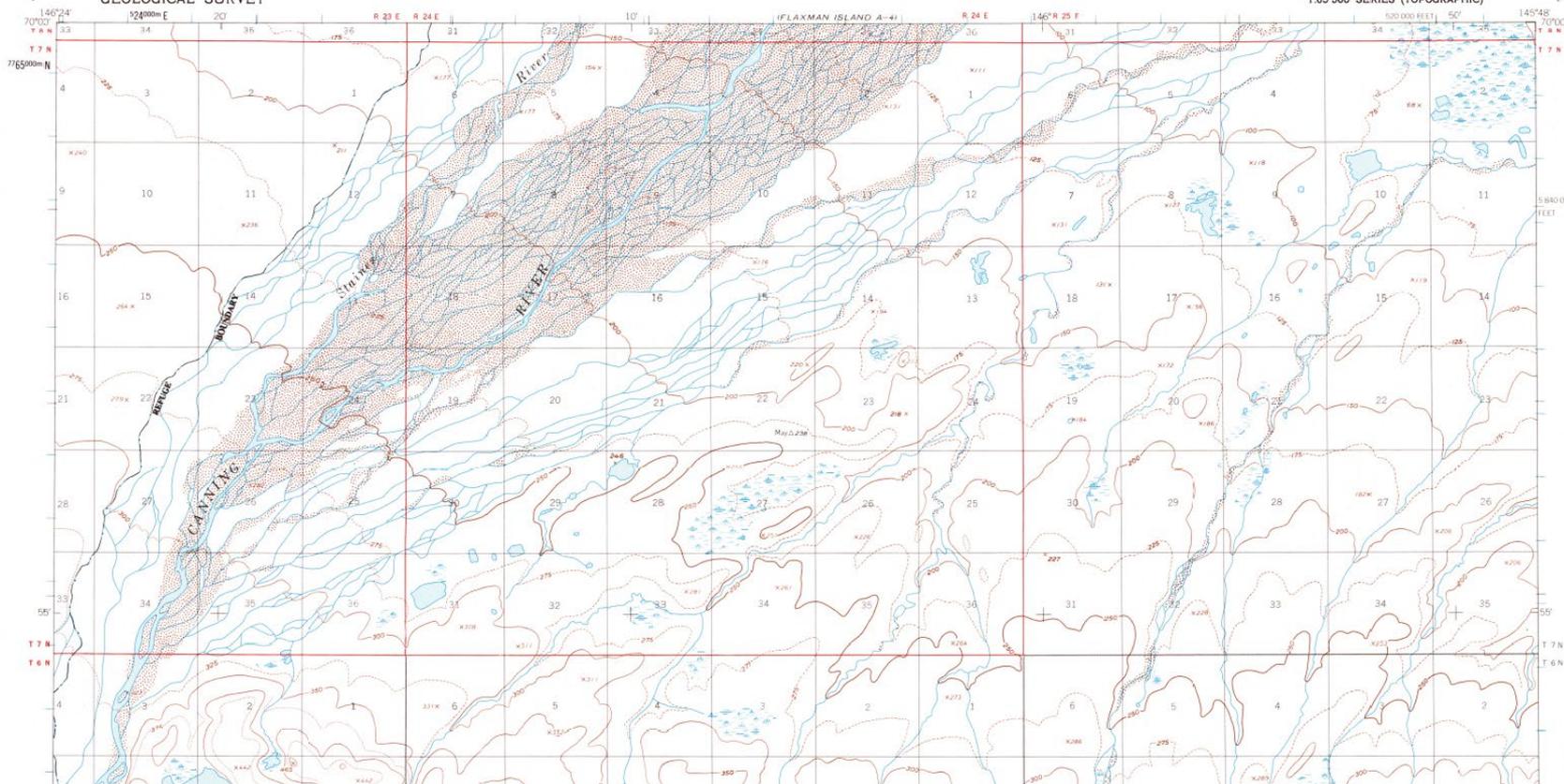
METHODS AND PROCEDURES

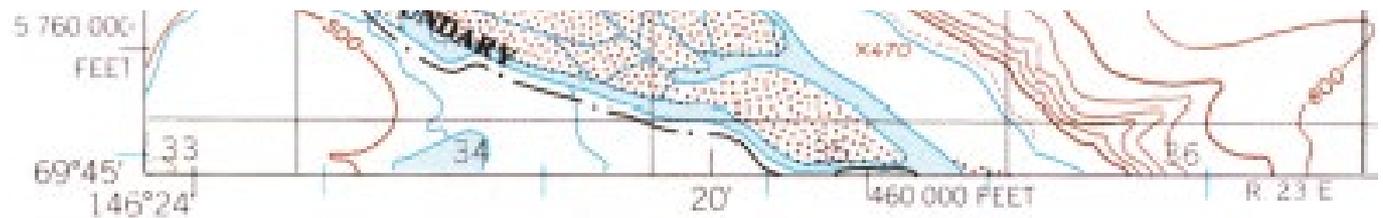
This survey will be accomplished utilizing Hoversite-Hydrodist techniques as generally described in a paper entitled "Use of the Airborne Control System in Cadastral Engineering", presented at Washington, D.C., March 18, 1964. The sinuous

line of mean high tide of the Beaufort Sea and the line of mean high water on the left limit of the Staines River will be compiled from the latest available U.S. Coast and Geodetic Survey "T" sheets, or if such sheets are not available, from U.S. Army Corps of Engineers 1:50,000 or U.S. Geological Survey 1:63,360 topographic sheets; whichever is the most recent and available. The line of mean high tide on all islands, islets and substantial rocks offshore of the mainland will be similarly determined.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

MT. MICHELSON (D-4) QUADRANGLE
ALASKA-NORTH SLOPE BOROUGH
1:63 360 SERIES (TOPOGRAPHIC)





MICHELSON C-51

Mapped by the Defense Mapping Agency
 Edited and published by the Geological Survey

Control by NOS/NOAA and USCE

Topography by photogrammetric methods from aerial photographs
 taken 1955, field annotated 1955. Map not field checked

Revised and 1955

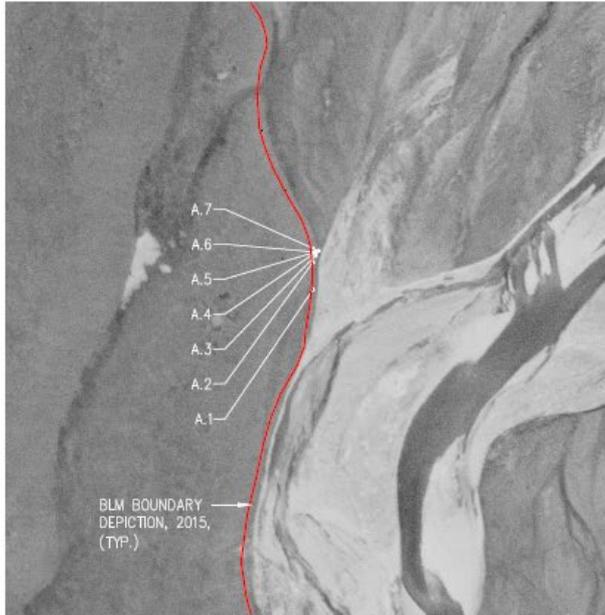
A wide, flat landscape of dry, brownish-green grass under a cloudy sky. The horizon is flat and distant, with a few small hills visible on the horizon line. The sky is overcast with light grey clouds.

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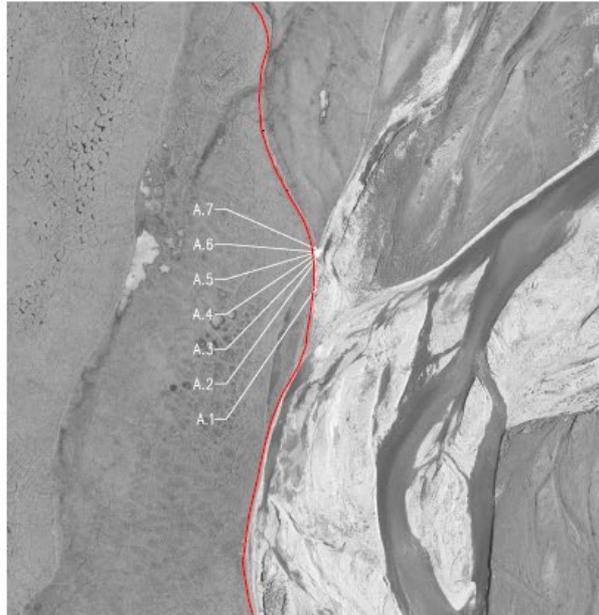
That's Great, Mike, But Why Does It
Matter What It Looks Like Today?
BLM surveyed it in the late 1960s.

EXHIBIT A-1: AERIAL PHOTOS

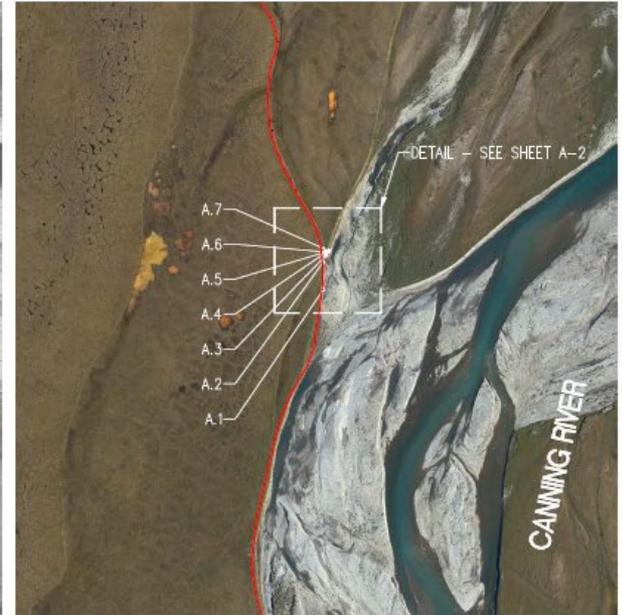
LOCATED IN TOWNSHIP 6 NORTH, RANGE 23 EAST, UMIAT MERIDIAN



1955 AERIAL PHOTO



2016 AERIAL PHOTO



2016 AERIAL PHOTO



EXHIBIT A-2: AERIAL DETAIL AND GROUND PHOTOS

LOCATED IN TOWNSHIP 6 NORTH, RANGE 23 EAST, UMAT MERIDIAN



A.1



A.2



A.3



A.4



A.5



A.6



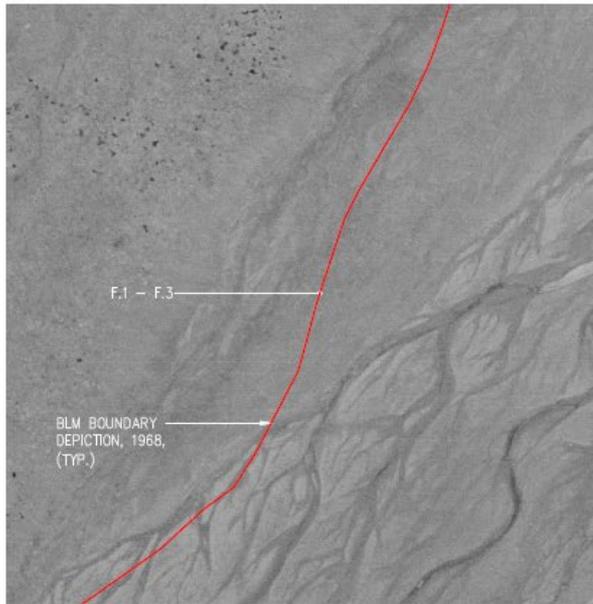
A.7



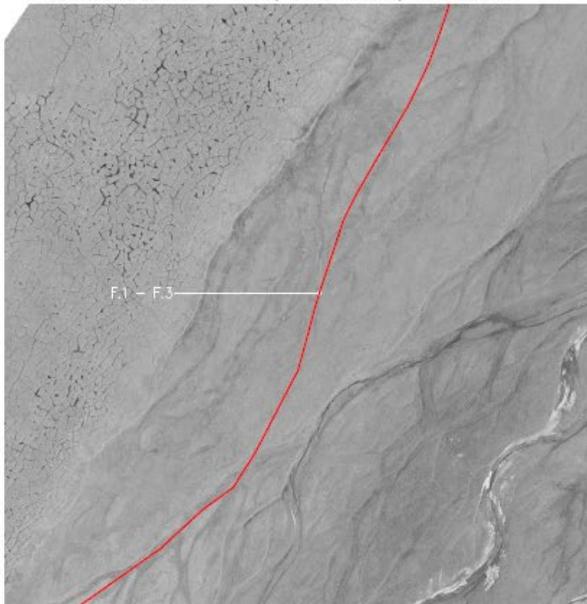
DETAIL: SCALE 1"=250'

EXHIBIT F: AERIAL AND GROUND PHOTOS

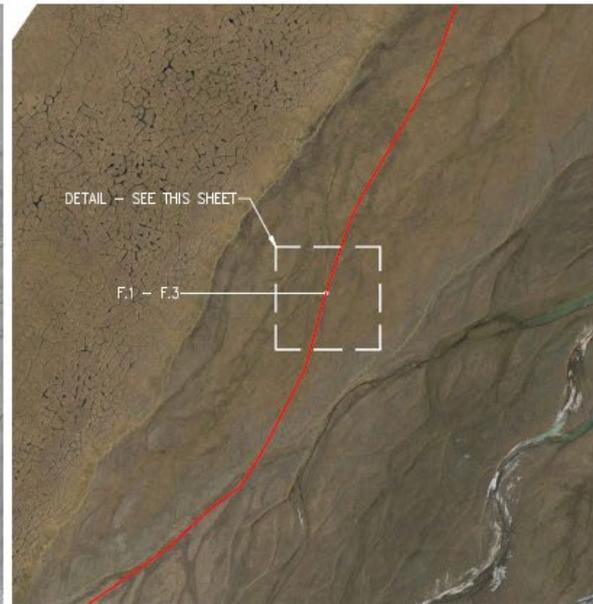
LOCATED IN TOWNSHIP 7 NORTH, RANGE 23 EAST, UMAT MERIDIAN



1955 AERIAL PHOTO



2016 AERIAL PHOTO



2016 AERIAL PHOTO



NORTH

SCALE: 1"=800'



DETAIL: SCALE: 1"=250'



F.1



F.2

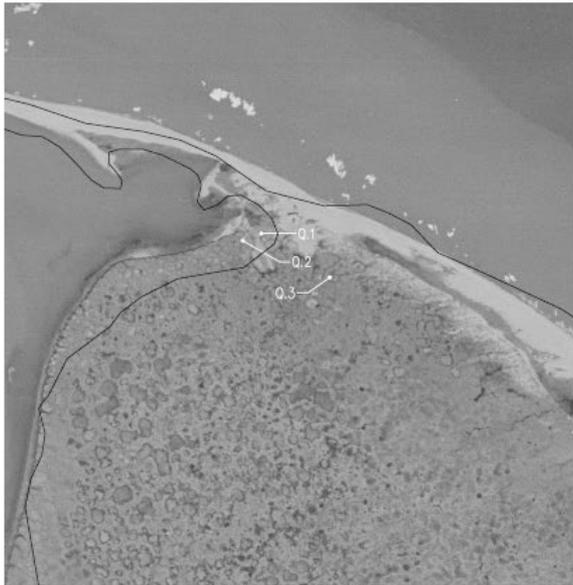


F.3

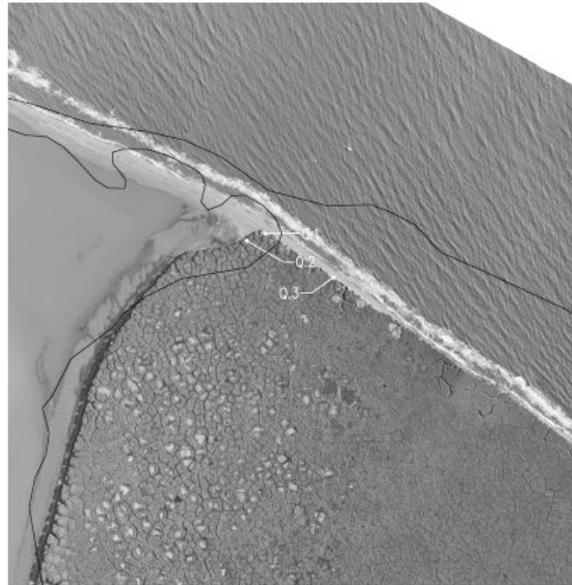
What's a Point?

EXHIBIT Q: AERIAL AND GROUND PHOTOS

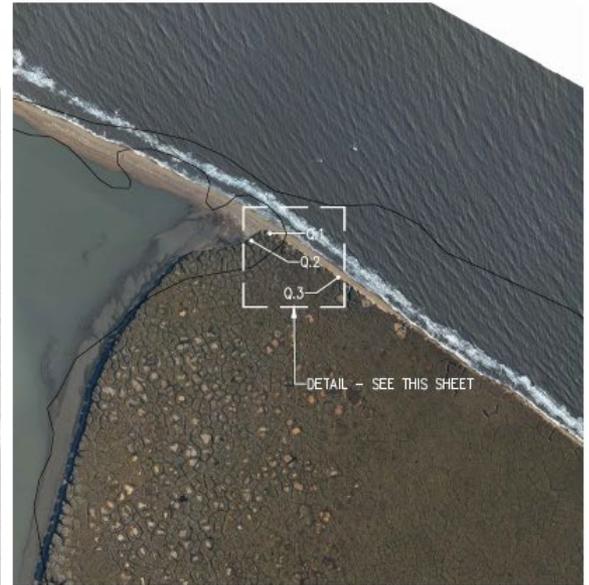
LOCATED IN TOWNSHIP 9 NORTH, RANGE 25 EAST, UMIAT MERIDIAN



1955 AERIAL PHOTO



2016 AERIAL PHOTO



2016 AERIAL PHOTO



DETAIL: SCALE: 1"=250'



Q.1



Q.2



Q.3

Exhibit Q

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EXHIBIT Q

thence westerly along the said line of extreme low water, including all offshore bars, reefs, and islands **to a point of land on the Arctic Seacoast know as Brownlow Point**, at approximate longitude 145° 51' W., and latitude 70° 10' N.

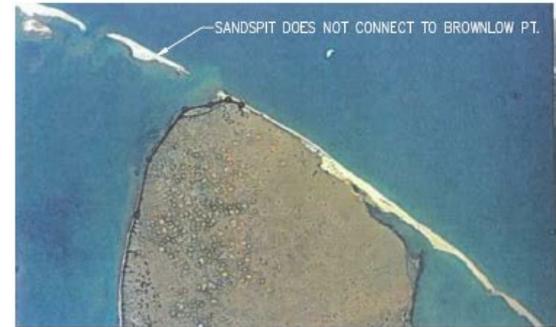
**EXHIBIT R: AERIAL PHOTOS SHOWING
CHANGES TO SANDSPIT AT BROWNLOW PT.**

LOCATED IN TOWNSHIP 9 NORTH, RANGE 25 EAST, UMIAT MERIDIAN



SANDSPIT USED BY B.L.M. IS IN THREE PARTS

1955 AERIAL PHOTO



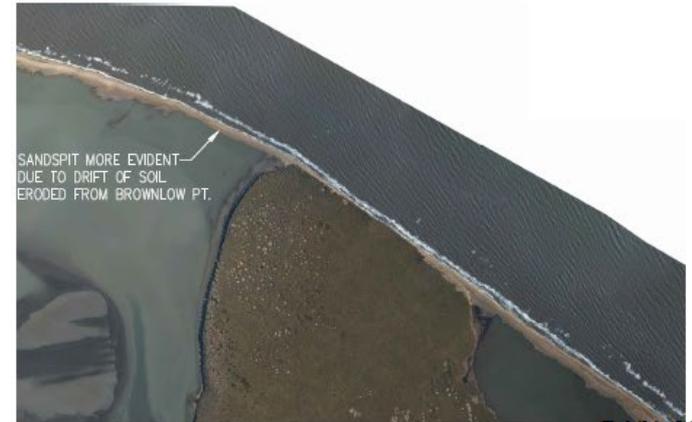
SANDSPIT DOES NOT CONNECT TO BROWNLOW PT.

2001 AERIAL PHOTO



SANDSPIT DOES NOT EXIST

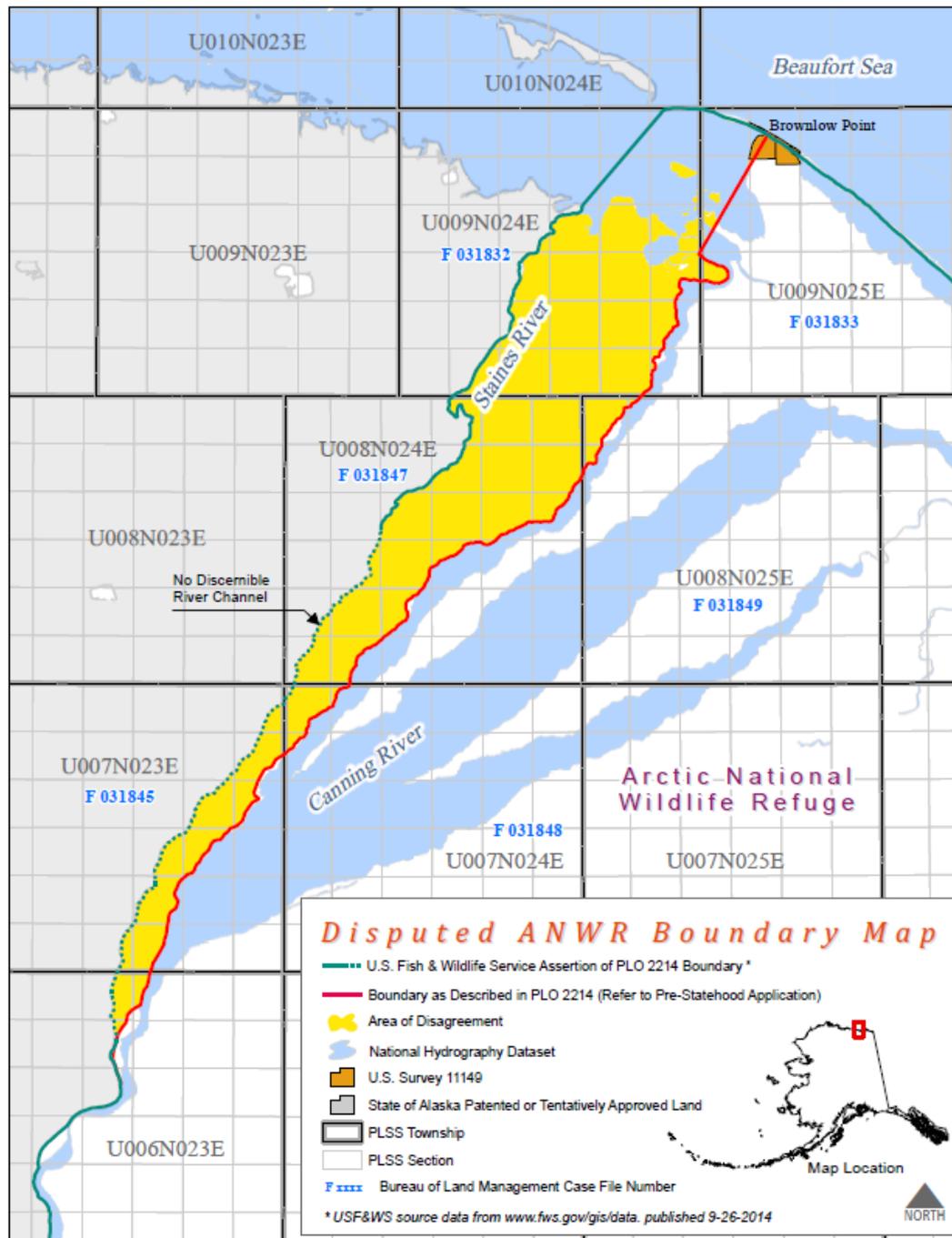
2003 AERIAL PHOTO



SANDSPIT MORE EVIDENT
DUE TO DRIFT OF SOIL
ERODED FROM BROWNLOW PT.

2016 AERIAL PHOTO

Why Does It Matter?



Can This Be Fixed 50 Years Later?

Recognition of the IBLA's power to reconsider under the circumstances of this case is consistent with the fact that it has long been recognized that **the Secretary of Interior has broad plenary powers over the disposition of public lands.** He has a continuing jurisdiction with respect to these lands until a patent issues, and he is not estopped by the principles of res judicata or finality of administrative action from correcting or reversing an erroneous decision by his subordinates or predecessors in interest. **So long as the legal title remains in the Government, the Secretary has the power and duty upon proper notice and hearing to determine whether the claim is valid.**

Ideal Basic Indus., Inc. v. Morton, 542 F.2d 1364 (9th Cir. 1976)

Questions and Discussion



Mike Schechter standing near the Mighty Staines