

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

**Proposed Non-competitive Sale to Preference Right Applicant,  
Vernon D. Billman**

**PRELIMINARY DECISION – ADL 22654**

pursuant to  
**AS 38.05.102  
AS 38.05.321**

and

**PROPOSED RELATED ACTION**

**50-foot wide Public Access Easement, ADL 233377, under AS 38.05.850**

**PUBLIC COMMENT PERIOD ENDS 3:30PM, TUESDAY, MARCH 19, 2019**

**Proposed Action, Non-competitive Sale:** The Department of Natural Resources (Department), Division of Mining, Land and Water (Division) has received an application from Vernon D. Billman (Denny Billman) to purchase a parcel of State land pursuant to *Alaska Statute (AS) 38.05.102*. The proposed decision will allow the parcel to be sold through a non-competitive sale to the applicant. The parcel is located within Section 27 of Township 24 North, Range 4 West, Seward Meridian and is approximately 80 acres in size. The current legal description for the parcel is the S1/2SE1/4 of Section 27 of Township 24 North, Range 4 West, Seward Meridian – see Attachment A.

**Proposed Related Actions:** The Preliminary Decision also proposes to create a 50-foot wide public access easement (reference DNR casefile ADL 233377) along the west boundary of the property presently leased by Mr. Billman (the SE1/4 of Section 27 of Township 24 North, Range 4 West, Seward Meridian). The division proposes to grant this easement in the name of the State, DMLW, on behalf of the public. The scope of use of the proposed easement will encompass uses described by *AS 19.59.001(8)*, if approved (see attached easement application).

**Comment Period:** The public is invited to comment on this Preliminary Decision of the proposed non-competitive land sale and easement. **The deadline for comments is 3:30PM, Tuesday, March 19, 2019.** See the attached Public Notice for information on how to submit comments. Please submit comments regarding the Preliminary Decision and the easement separately.

**Authority:** The Department has the authority under *AS 38.05.102* to sell State-owned land and under *AS 38.05.321* to restrict the land to agricultural use only if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*.

The proposal for creation of an access easement described herein is being adjudicated pursuant to AS 38.05.850 and the Alaska Land Act as amended.

**Administrative Record:** The administrative record for the proposed actions consists of the case file ADL 22654 and ADL 233377. Also incorporated by reference are additional files and documents listed throughout this decision.

**Scope of the Decision:** The scope of this decision is limited to determining if the applicant and the subject parcel qualify under the listed statute, if it is in the state's best interest to sell the subject parcel, and if it is in the state's best interest to sell the subject parcel to the applicant. The scope of this decision includes the determination of whether to create a public access easement as described herein.

The proposed decision recommends this parcel to be sold through a non-competitive sale to the applicant and that the public access easement proposed herein is approved.

The applicant is responsible for bearing the cost of the public notice, survey and appraisal. The Division intends to impose agricultural restrictions in the patent under AS 38.05.321. Other restrictions regarding land use will be handled by the local zoning authority, if any.

**Description:**

Location: The subject parcel and easement are located on the east side of the Parks Highway 13 miles southeast of the community of Talkeetna, Alaska.

Municipality/Borough: The subject parcel is located within the Matanuska Susitna Borough.

Native Regional/Village Corporations/Councils: The regional corporation is Cook Inlet Region, Inc. There are no native village corporations or tribal councils in this area.

Legal Description: The land description for the subject parcel to be purchase is within federal plat 4-675 (GLO survey), Township 24 North, Range 4 West, Seward Meridian accepted October 7, 1918. The parcel is further described as S1/2SE1/4 of Section 27.

**Title:**

The State received title to the subject parcel on October 17, 1960 under federal patent #1213622. On October 21, 1983 the State of Alaska quitclaimed the state's interest in the parcel through QCD 585 to the Board of Regents of the University of Alaska, as trustee for the University of Alaska. On December 21, 1983 the Board of Regents quitclaimed its interest back to the State of Alaska for said parcel. A title report #7606 was issued on March 4, 2015. The parcel is subject to the reservations, easements, and exceptions contained in the federal patent.

State Retained Interest: The State retains ownership of all oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells (AS 38.05.125). The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing and producing these reserved mineral resources. Under common law, this access reservation is superior to any and all land uses. The State may also lease them to mineral developers or allow mining locations to be staked. However, Alaska law also provides that the land owner will be compensated for damages resulting from mineral exploration and development (AS 38.05.130).

Native Interest: The subject parcel is within the boundaries of the Cook Inlet Region, Inc. There are no native interests identified with this parcel.

Other 3<sup>rd</sup> Party or Pending Interests: None.

**Reservation of Mineral Estate:** In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the state, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.

**Background and Discussion:** The initial intent of the lease was agriculture use per Agricultural Auction #79. The lease, ADL 22654, was issued on May 6, 1964, to make the land available for agribusiness or agrarian purposes. In 1983, the parcel left state ownership for a brief period during the University Settlement land transaction, however, during the same year the subject parcel was re-conveyed back to the State. The lease remained in effect during this time.

On April 24, 2000, the Southcentral Regional Office within the Department received a forest plot permit application pursuant to 11 AAC 96.010 from the University of Alaska Fairbanks to acquire tree growth data within the subject parcel area under land use permit LAS 22993. On April 10, 2017, the Division of Agriculture (DOA), approved a Farm Conservation Plan (FCP) pursuant to 11 AAC 67.177 allowing development of the subject parcel for agricultural purposes. The subsequent improvements negated the purpose of having the forest plot, therefore, the Department reached out to the University and permit LAS 22993 was rescinded in the subject parcel area.

On June 15, 2018, Denny Billman applied to purchase the lease area pursuant to AS 38.05.102. While the existing lease issued under ADL 22654 includes 160 acres, the applicant has requested to purchase only 80 acres of this 160, specifically being the S1/2 of the SE1/4, Section 27, Township 24 North, Range 4 West, Seward Meridian.

On January 15, 2019 the applicant, acting in their role as current leaseholder, met with the Land Sales Section and signed a letter of non-objection to DMLW's creation of a 50-

foot wide public access easement (ADL 233377) along the western side of the leased parcel.

The Land Sales Section contacted the Leasing Unit and confirmed that the applicant was in good standing.

As mentioned above, DOA approved the FCP which is valid for five years. If the purchase is not completed by April 24, 2022, an updated and approved FCP will be needed.

The State will issue patent for the subject parcel with agricultural land use restrictions pursuant to AS 38.50.321.

**Planning, Classification, and Mineral Orders:**

DNR Land Use Plan: The subject parcel is located within the Susitna Matanuska Area Plan (SMAP) adopted on August 11, 2011, within the South Parks Highway region unit (# S-06). The SMAP superseded most of the area previously covered by the Susitna Area Plan issued in 1985. The land classification for the subject parcel was mistakenly omitted in the SMAP. In 1996, the Division of Agriculture requested plan designation and management intent for the subject parcel and on June 1, 2017, received Susitna Matanuska Area Plan Determination SC-09-002 DET11. This determination designated the subject parcel Agriculture consistent with current land use.

Land Classification: The State classified the subject parcel as Agriculture under Classification Order (SC-09-002-D11).

Mineral Order: The parcel has been previously closed to mineral entry by Mineral Order MCO 239.

Area plan subsurface management policy states that, in general, areas or parcels scheduled for disposal will be closed to mineral entry prior to sale to minimize potential conflict between land estate and mineral estate users.

Mineral orders for closures, where they have been established, close the area to exploration and development of locatable minerals such as gold, copper, platinum, etc. Mineral orders do not apply to leasable minerals, including oil and gas, coal, shallow gas, or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, Alaska law also provides that the surface owner will be compensated for damages resulting from mineral exploration and development (AS 38.05.130).

Local Planning: A review of the 2005 Y Community Comprehensive Plan (YCC) and the Matanuska-Susitna Borough Comprehensive-Development Plan, showed no-conflict in maintaining the community's rural character within the YCC area for the proposed sale and easement actions.

**Easements and Setbacks:** This parcel will be subject to a variety of reservations and restrictions to be of public record before the applicant can apply for a 40-acre exemption with the local platting authority. The easements are identified below and will be shown on a record of survey to be completed after the 40-acre exemption is approved.

- A portion of the 400-foot utility easement granted to the DCCED Alaska Energy Authority under ADL 213063 for the Willow/Healy Intertie falls within the subject parcel. An estimated 65 feet of Willow/Healy Intertie easement will encumber the subject parcel along the eastern boundary. At time of survey, the actual footage that encumbers the parcel will be determined;
- A 50-foot public access easement public access (ADL 233377) along the western boundary of the leased parcel, as proposed in this decision;
- a 50-foot-wide section line easement on each side of surveyed or protracted section lines on State-owned land in accordance with AS 19.10.010 *Dedication of Land for Public Highways and 11 AAC 51.025 Section-line Easements*.

**Access:** Access to the subject parcel is located on East Montana Creek Road via the Parks Highway at Mile Post 96.5.

**Traditional Use Findings:** A traditional use finding is not necessary because the subject parcel is located within an organized borough.

**Hazardous Materials and Potential Contaminants:** There is no known contamination of, or hazardous materials on, the subject parcel.

**Performance Guaranties and Insurance:** Not applicable to this decision.

**Survey:** Preliminary Survey Determination #SD 2019-01 dated January 3, 2019 has determined the leased land to be surveyed. However, the applicant has applied to only purchase the southern 80 acres. If the purchase is approved, the applicant will need to apply for a 40-acre exemption with the local platting authority after the public easement, ADL 233377, has been recorded. A record of survey of these 80 acres will be required after the 40-acre exemption has been approved.

**Compensation/Appraisal:** If the purchase is approved, the parcel will be sold at fair market value as required by AS 38.05.840(a). At the appropriate time, the Division will notify the applicant to begin the appraisal process and will provide a list of approved appraisers. The Appraisal Unit will provide appraisal instructions to an approved appraiser. The applicant bears the cost of appraisal. The date fixed for sale under AS 38.05.840(a) and the valuation date of the appraisal will be set as the date of inspection by the appraiser. The appraisal will factor in the proposed deed restrictions.

**Agency Review:** Agency review is being conducted concurrent with the public notice of this preliminary decision. Agency comments received will be addressed in the Final Finding and Decision along with public comment.

**Submittal of Public Comments:** Pursuant to AS 38.05.945, the Division is issuing public notice inviting comment on this Preliminary Decision.

In accordance with AS 38.05.946(a), a municipality or corporation entitled to receive notice under AS 38.05.945(c) may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether or not to hold a public hearing.

The Division will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposals are approved and no significant change is required, the Preliminary Decision, including any deletions, minor changes, and summary of comments and Division responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom the Division receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision, which will include the approval of the public access easement (ADL 233377). Upon approval and issuance of these actions, a copy of the decision, will be made available at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

DNR is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need such assistance should contact the Department's Public Information Center. For more information refer to the attached Public Notice.

**DEADLINE TO SUBMIT WRITTEN COMMENT IS  
3:30PM, TUESDAY, MARCH 19, 2019**

**Stipulations:** The applicant will be required to comply with the following stipulations to complete the proposed land sale:

1. The lessee/applicant must remain in good standing with respect to the terms of the lease until the lease is relinquished. If the applicant is not in good standing at any time prior to relinquishment of the lease, the purchase process will be halted until the lessee/applicant regains good standing as determined by the Division.
2. Once the Final Finding and Decision is signed and the appeal period is over without an appeal received, a notice to proceed to survey will be issued. The applicant must hire a surveyor and the surveyor must apply to the Division's Survey Section for survey instructions.

3. After issuance of the survey instructions, the applicant must submit a completed survey to the Division's Survey Section for review. The applicant must have the survey approved by the Department and the local platting authority, if any, as set forth in the survey instructions.
4. Upon approval and recording of the survey, a notice to proceed to appraisal will be issued. The applicant must hire an appraiser from the approved Department appraiser list. The appraiser must apply for appraisal instructions issued by the Division, and then must submit to the Division a completed fair market value appraisal in accordance with appraisal instructions issued by the Division. The Division must approve the appraisal.
5. Upon approval of the appraisal, a notice to proceed to purchase will be issued to the applicant. Before the expiration of the lease or lease extension, the applicant must submit to the Division the following:
  - A completed and signed Declaration of Intent Form;
  - A signed and notarized Relinquishment of Land Lease form;
  - A completed Veteran's Land Discount form (if eligible);
  - An approved FCP;
  - Payoff amount plus \$265 patent application and recordation fees OR minimum 5% of the purchase price as deposit plus \$405 land sales contract application and recordation fees. Fees are subject to change.
6. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Contract for the Sale of Real Property throughout its term, if such a contract is issued. As an agricultural land sale, the Contract for the Sale of Real Property may include agricultural development requirements to be completed in a specified timeframe. The applicant must also remain in compliance with all applicable state and local laws, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.

**Alternatives:** The following alternatives were considered.

Alternative 1: Sell

Offer the subject parcel for sale and approved the public access easement as proposed in this decision. If it is in the best interest of the State, AS 38.05.102 allows a qualified applicant to purchase State land if the relevant statutory requirements are met and AS 38.05.850 allows for the creation of easements.

Alternative 1 provides an opportunity for an Alaskan to purchase land within this area. Due to the unique soil qualities of the area and agriculture classification, along with the ease of access to Anchorage, Palmer and Talkeetna distribution network for agribusiness or agrarian products to nearby markets, the subject parcel is best suited

for agricultural sale. The sale of the subject parcel will provide agriculture land to the private sector and generate revenue for the State. The public access easement will allow access to the property beyond the subject parcel. Therefore, it is in the best interest of the state to sell the parcel and approve the easement. This is the preferred alternative.

Alternative 2: Lease

The State could continue to lease the subject parcel. The State would have to manage the leased property until expiration of the lease and would need to expend resources managing any possible improvements that the lessees might leave on the land upon termination of the lease, while forgoing income that could have been generated in the sale of the subject parcel. At the expiration of the lease, the current authority for the public access easement also expires. This is not in the best interest of the State. This alternative is not preferred.

Alternative 3: Retain

The Department will take no action and retain the subject parcel after the end of the lease. The State would need to expend resources managing the land and its improvements, while forgoing the income that could have been generated by a sale. The development plan proposed improvements such as a well, septic leach field, pole barn, work shop and a living structure. The improvements would impose a significant maintenance or reclamation burden at the end of the lease. At the expiration of the lease, the current authority for the public access easement also expires. Retaining the subject parcel in state ownership is not in the best interests of the State. This alternative is not preferred.

**Recommendation:** The proposed action, Alternative 1, is believed to be in the overall best interest of the state, the proposed purchase is consistent with the requirements of AS 38.05.102 and the proposed public access easement is consistent with the requirements of AS 38.05.850 and the Alaska Land Act as amended. Alternative 1 provides accessible, quality land for private ownership and will generate revenue for the State.

After public notice, the subsequent review process may result in changes to the preferred alternative. A Final Finding and Decision will address any significant issues or concerns raised during the public review process.

The state does not guarantee the condition or usefulness of the subject land. The land is offered "as is" with no guarantees, expressed or implied, as to its suitability for any planned or potential use, or as to the availability of any public or private services.

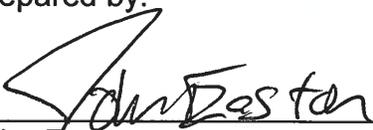
If conditions for which this application was made change before the proceeding to purchase, either by contract or payment in full, an amended decision, including further public notice, may be required prior to the completion of the purchase.

If the applicant is unable to complete the stipulations by the end of the lease or lease extension term, the Division may decide to close this purchase application or require the renewal for the lease to allow additional time to complete the purchase process.

**Proposed Action Approved for Public Review:**

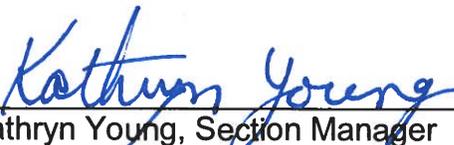
The proposed action may be in the best interests of the state and the Preliminary Decision is hereby approved to proceed to Public Notice in accordance with AS 38.05.945.

Prepared by:

  
\_\_\_\_\_  
John Easton  
Natural Resource Specialist III

2/13/19  
Date of Signature

This Preliminary Decision is hereby approved to proceed to public notice in accordance with AS 38.05.945.

  
\_\_\_\_\_  
Kathryn Young, Section Manager  
Land Sales Section  
Division of Mining, Land and Water

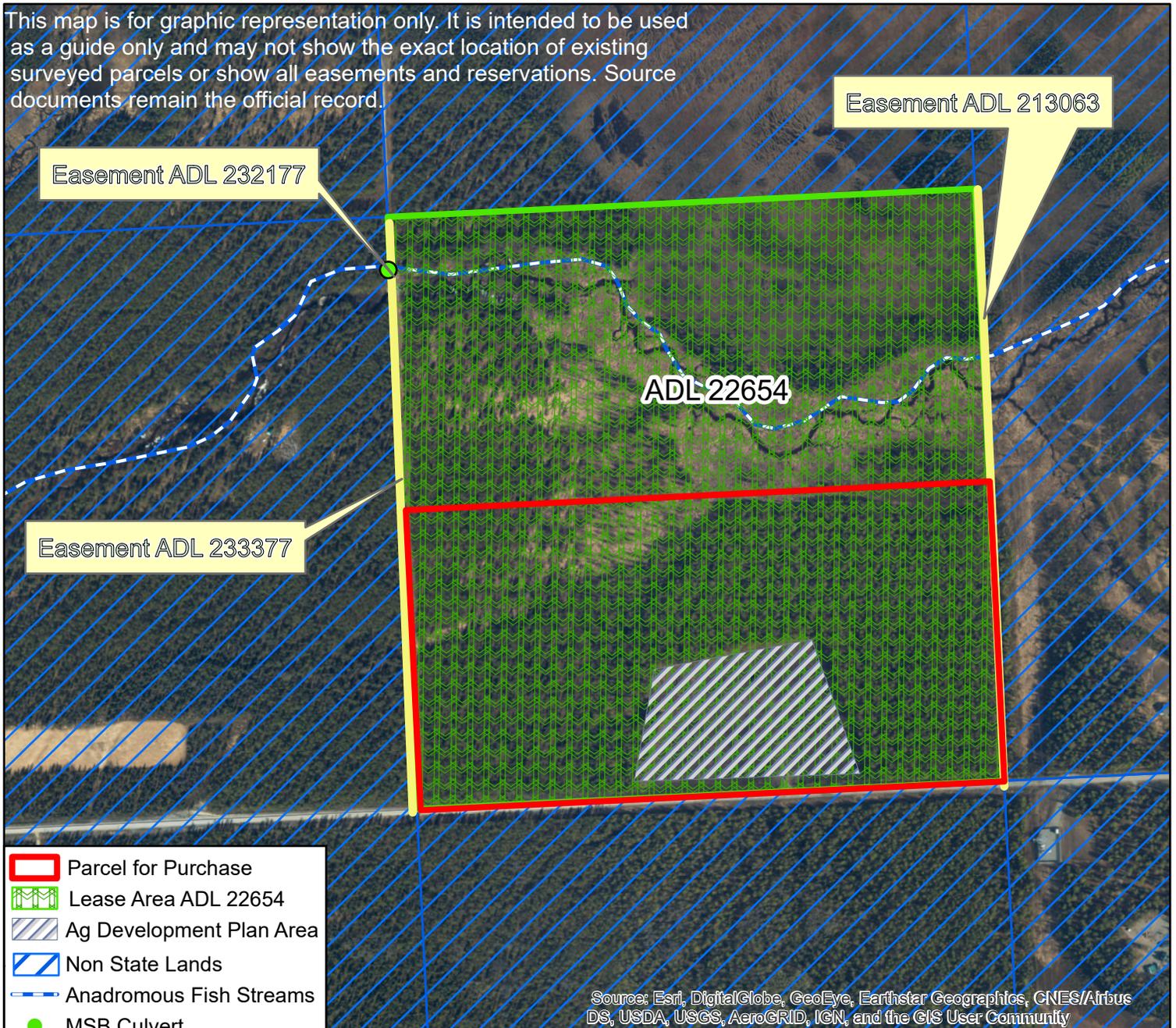
Feb 13, 2019  
Date of Signature



# Vernon D. Billman - ADL 22654 Attachment A: Vicinity Map

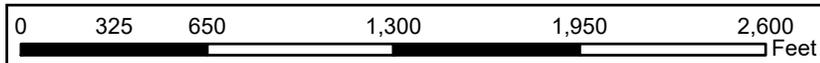
Preliminary Decision for a Proposed Noncompetitive Sale  
Pursuant to AS 38.05.102 and AS 38.05.321

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



- Parcel for Purchase
- Lease Area ADL 22654
- Ag Development Plan Area
- Non State Lands
- Anadromous Fish Streams
- MSB Culvert
- Easement Areas

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



JRE 01/18/2019

USGS QUAD 1:63,360  
Talkeetna B-1  
Township 24 North, Range 4 West,  
Seward Meridian

For more information contact:  
Department of Natural Resources  
Division of Mining, Land, and Water  
Land Sales Section  
John Easton  
Phone: 907-269-5639  
Fax: 907-269-8916  
Email: john.easton@alaska.gov



## Section 27, Township 24 North Range 4 West, Seward Meridian

