

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND & WATER

# PRELIMINARY DECISION

**Proposed ADL 231512 Material Site Re-Designation**  
**Proposed ADL 215567 Department of Transportation and Public Facilities**

Material Site Re-Designation and Interagency Land Management Assignment

AS 38.05.550-565

AS 38.05.020(b)(2)

This Preliminary Decision (PD) is the initial determination on a disposal of interest in State land and is subject to comments received during the public notice period. The public is invited to comment on this PD. The deadline for commenting is 5:00 PM on October 25, 2021. Please see the Comments section of this decision for details on how and where to send comments for consideration. Those who comment may be eligible to appeal the Final Finding and Decision (FFD).

**Proposed Action:**

The Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW) is considering the request of an Interagency Land Management Assignment (ILMA) to the Department of Transportation and Public Facilities (DOT&PF). The ILMA application is serialized as ADL 215567 and overlaps an existing material site serialized as ADL 231512, which is commonly referred to as the Comsat Road Quarry. The project area is located near Talkeetna, AK (see Figure 1). The original boundary of the site occupies approximately 150 acres. DMLW proposes to adjust the size of the site to 113.7 acres, more or less, as discussed in the Agency Review section. To facilitate DOT&PF's ILMA application, DMLW is also considering the re-designation of ADL 231512. The site was originally designated through the 2012 Preliminary and Final Finding regarding statewide Material Site Designations<sup>1</sup> (referred to as the 2012 Omnibus Decision). The original designation was authorized under AS 38.05.550(b). However, the 2012 Omnibus Decision inadvertently described the site as having been subject to a material sales contract or material sale decision at some time between January 1, 2000, and the date of the Omnibus Decision. Although this criterion was not a legal requirement for designation under AS 38.05.550(b), and although DMLW believes the original 2012 designation remains effective, DMLW is re-designating this site.

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<sup>1</sup> The Preliminary Decision was signed August 6, 2012, followed by the Final Finding decision on November 29, 2012, by DMLW Director Brent Goodrum.

In addition, numerous concerns from nearby community members, the Talkeetna Community Council, and the Matanuska-Susitna Borough (MSB) were brought to the attention of DMLW regarding the use and impacts of the material site, beginning in November 2019. The scope of this decision is to re-designate the material site and issue the ILMA, which would allow an opportunity for concerned parties to comment through DMLW's administrative process.

The location of the proposed project area is further described as being within the NE ¼ of Section 32, Township 26 North, Range 4 West, Seward Meridian.

**Scope of Review:**

The scope of this decision is to determine if it is in the State's best interest to re-designate material site ADL 231512 and issue the proposed ILMA ADL 215567 to DOT&PF.

**Authority:**

ADL 215567 is being adjudicated pursuant to AS 38.05.020(b)(2) Authority and Duties of the Commissioner; and ADL 231512 is being adjudicated pursuant to AS 38.05.550-565 Disposal of Materials; AS 38.05.035(e) Powers and Duties of the Director; AS 38.05.945 Public Notice.

**Administrative Record:**

The administrative record for the proposed actions consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the Susitna Matanuska Area Plan and other classification references described herein, and the casefiles serialized as ADL 231512 (material site) and ADL 215567 (ILMA).

**Legal Description, Location, and Geographical Features:**

The state land where the material site is located is described as follows:

- **Legal Description:** NE ¼ of Section 32, Township 26 North, Range 4 West, Seward Meridian
- **Geographical Location:** Located approximately 1.35 miles along Comsat Road, approximately from milepost 12 of the Talkeetna Spur Highway.
- **Approximate Latitude/Longitude:** 62.3057 N, 150.0508 W
- **Area Geographical Features:** Christensen Lake is located northwesterly of Comsat Road Quarry; Talkeetna Lakes is located southwesterly to the site.
- **Existing surveys:** No location surveys.
- **Municipality/Borough:** MSB
- **Native Corporations/Federally Recognized Tribes:** Cook Inlet Region, Inc.
- **Size:** proposed to be reduced to 113.7 acres, more or less



Figure 1: Overview map of project area.

**Title:**

The State of Alaska holds fee title to the subject land and mineral estates under GS 353, Patent No. 1234811 dated 1/22/1964. A DNR Title Report (RPT-22080) issued on August 20, 2021, from DMLW’s Realty Services Section, attests the State of Alaska holds title to the subject land.

**Third Party Interests:**

There are two known third-party interests: ADL 33023, an issued public easement held by DMLW and ADL 46013, an issued public easement held by DOT&PF. It should be noted that RPT-22080 also lists the following interests: ADL 230424 (trespass); ADL 232908 (material sale contract); and LAS 18638 (personal use-material sale). Each demonstrates a use in regard to material extraction within ADL 231512. However, the authorizations associated with ADL 230424, ADL 232908, and LAS 18638 are considered revocable in nature and are not considered by DMLW as true third-party interests.

ADL 33023 is located over the existing Comsat Road, as are portions of ADL 46013, and should not impact current or future activities within the site. The proposed action is not expected to interfere with the above third-party interests.

**Planning and Classification:**

ADL 231512 is located within the boundaries of the Susitna Matanuska Area Plan (SMAP). When the SMAP was prepared this land was inadvertently omitted and was not designated and/or classified. However, in Chapter 4 of the SMAP, a section titled “Applicability of Plan Designations/Classifications to State Lands not Identified in the Plan Text or Plan Maps”, contains a provision that does not require a plan amendment for designation/classification of land inadvertently omitted. Under this provision in the plan, the parcel is designated General Use and classified Resource Management Land. The guidance in Chapter 2 of the SMAP for anadromous streams applies to Kirby Creek.

**Traditional Use Findings:**

The proposed site is located within the MSB. Pursuant to AS 38.05.830 a traditional use finding is not required.

**Access:**

Access to the Comsat Road Quarry is from Comsat Road, which begins at approximately milepost 12 of the Talkeetna Spur Highway.

**Agency Review:**

An agency review was conducted on August 31, 2021. The deadline for agency comments was September 10, 2021.

The following agencies were included in the review:

- DNR DMLW Mining
- DNR DMLW Water Resources
- DNR DMLW Realty Services Section
- DNR DMLW Land Conveyance Section
- DNR DMLW Statewide Abatement of Impaired Lands Section
- DNR DMLW Resource Assessment & Development Section
- DNR DMLW Contract Initiation and Revenue Recovery
- DNR Office of History and Archaeology/State Historic Preservation Office (OHA)
- DNR Division of Oil and Gas (DOG) & State Pipeline Coordinator’s Section (SPCS)
- DNR Division of Geological and Geophysical Surveys
- DNR Division of Parks and Outdoor Recreation
- DNR Division of Forestry
- Alaska Department of Fish and Game (ADF&G) Habitat Section

- ADF&G Wildlife Conservation
- Alaska Department of Environmental Conservation (DEC)
- DOT&PF
- Alaska Department of Commerce, Community, and Economic Development
- Alaska Department of Labor and Workforce Development
- U.S. Forest Service
- U.S. Army Corps of Engineers (USACE)
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. National Park Service
- U.S. Bureau of Land Management
- MSB Planning Department

Comments of non-objection were received from the DMLW Land Conveyance Section and the Division of Forestry.

DOT&PF Comment:

“The Comsat Rd quarry is a very important site for DOT&PF, as it is the only state-owned rock source in the area. During the 2012 floods, DOT&PF used a lot of rock from the Comsat rock quarry site for emergency response, particularly at Talkeetna Airport. It is vital that DOT&PF continue to have access to the rock at that site for use during emergencies and for emergency permanent repairs, in addition to the less urgent but still vital need for M[aintenance] & O[peration] to use it as needed for scour protection in the area.”

DMLW Response:

Comment received. The importance of the rock source and the historical use for DOT&PF is understood and acknowledged.

ADF&G Habitat Section Comment:

“ADF&G has reviewed ADL 231512 and ADL 215567, a request from DOT for the issuance of an Interagency Land Management Agreement (ILMA) for a 150-acre parcel and the re-designation of a materials site for an existing rock quarry and gravel pit used for road maintenance located south of Comsat road adjacent to the Talkeetna Lakes.

Kirby Creek, Water Body No. (247-41-10200-2320-3010-4010), flows through the southeast corner of the parcel and is catalogued as anadromous providing important habitat for coho salmon. A Fish Habitat permit from the ADF&G Habitat Section is required if the scope of project includes installation of culvert(s), motorized stream crossings, water withdrawals, or alteration of the bed

or banks of Kirby Creek. Additionally, Chapter Two: Shorelands and Stream Corridors section of the Susitna-Matanuska Area Plan (adopted 2011) recommends riparian buffers adjacent to anadromous water bodies 100 to 150 feet upland of ordinary high water.

At this time we do not have any additional information about fish and wildlife habitats or public use of this parcel.”

DMLW Response:

The Susitna Matanuska Area Plan, August 2011 (SMAP) recommends the use of riparian buffers adjacent to anadromous water bodies. Additionally, the SMAP suggests the use of riparian buffers to minimize on-going management responsibilities. In order to ensure the recommended riparian buffer outlined in the SMAP is met, the site boundaries will be modified to exclude the southeast portion of the site where Kirby Creek and the surrounding wetlands are located.

DEC Comment:

“These types of material sites are not unusual in Alaska and typically fugitive dust is a concern to nearby residents. I was not able to determine if a rock crusher was planned for the site. The Air Quality Division has a minor general permit (MG9) requirement for rock crushers with a rated capacity of at least five tons per hour and that emit less than 100 tons per year of a regulated pollutant. If the source exceeds 100 tons per year, then a more involved Title V operating air permit would be required. Do you know if there is an existing rock crusher or plans for a rock crusher?”

More generally, these operations must take reasonable precautions at the material site and during any trucking of materials to prevent fugitive dust (particulate matter) impacts to air quality, as required under DEC regulations at 18 AAC 50.045(d). A dust control plan from the normal gravel pit/quarry operations could be helpful in alleviating the concerns of nearby residents, as would limiting the hours of operation. You may also consider a complaint line that requires the logging of complaints and responses. Since this material site is located in a wooded area, there is also a potential for mitigating fugitive dust impacts from migrating to residential areas by keeping a treed buffer on the sides of the parcel facing the residential area.

We also checked and it appears that there do not appear to be any active public water system (drinking water) sources or existing contaminated sites near the proposed area.”

DMLW Response:

Currently there is not a Material Sale Contract issued for the site, however, in the past DMLW has made the site subject to special stipulations for quarry operations. These stipulations include limiting operation hours, requiring the contractor to minimize dust and notification of the blasting schedule. The side of the site facing towards the closest residential area does have a treed/vegetative buffer which would contribute to minimizing dust impact. DMLW notes DEC’s

recommendation of a complaint line to log complaints and responses. This PD involves a proposed ILMA, which would transfer management of the site to DOT&PF, thus DMLW defers to DOT&PF on whether a complaint line should be established.

If approved, the ILMA would not exempt DOT&PF from compliance with all applicable laws and regulations, DMLW has passed this comment onto DOT&PF so they are aware of the recommendations.

SPCS Comment:

“The SPCS has the authority to issue material sale contracts for AS 38.35 pipeline leases to support our mission of facilitating the safe and reliable transportation of oil and gas to market, therefore, the SPCS has a vested interest in material sale site designations located in the vicinity of existing and future AS 38.35 pipelines for construction, operation and maintenance activities.

Approximately 20 road miles from the proposed material site and ILMA is the Right-of-Way Lease (ADL 418997) issued to the Alaska Gasline Development Corporation for the Alaska Stand Alone Gas Pipeline (ASAP). In order to provide materials for the construction, operation, and maintenance of ASAP and potential future AS 38.35 pipelines, the SPCS recommends SCRO designate the site for multiple users so that material sale contracts can be issued to entities other than ADOT&PF. Additionally, the SPCS requests the justification for transferring management of this material site from DNR to ADOT&PF.”

DMLW Response:

The material site is an existing rock quarry and gravel pit located in close proximity to the residential area of Christianson Lake in Talkeetna. While DMLW recognizes the importance of this site for DOT&PF’s use and management in connection with future transportation and access improvements along the Parks highway, other road construction, rehabilitation, maintenance, and emergency repair needs, DMLW also recognizes impacts to the nearby residential community. In order to reduce the impacts of conflicts of use by minimizing the number of operators on site, DMLW is proposing that the ILMA be issued to DOT&PF. If the proposed ILMA is approved, SPCS should communicate its interest to DOT&PF. However, DMLW has previously worked with SPCS on the identification of sites for other nearby gasline projects and Comsat quarry was not a site identified in that process.

Additionally, the issuance of ILMAs is considered a land management tool for DMLW to assist other state agencies in achieving goals that serve the public. DOT&PF’s ILMA application dates back to 1979 and issuance would help facilitate their objective in maintaining public highways and DOT&PF infrastructure.

USACE Comment:

“Based on our review of the information you provided and available to our office, we have preliminarily determined the subject property area may contain waters of the U.S. and wetlands under the Corps of Engineers (Corps) regulatory jurisdiction. Department of the Army authorization is required if the Department of Transportation and Public Facilities (DOT&PF) proposes to place dredged and/or fill material into waters of the U.S., including wetlands. DOT&PF can find a copy of the DA permit application online at [www.poa.usace.army.mil/Missions/Regulatory](http://www.poa.usace.army.mil/Missions/Regulatory). DOT&PF can refer to the sample drawing on our website at [www.poa.usace.army.mil/Portals/34/docs/regulatory/guidetodrawings2012.pdf](http://www.poa.usace.army.mil/Portals/34/docs/regulatory/guidetodrawings2012.pdf).

Section 404 of the Clean Water Act requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including jurisdictional wetlands (33 U.S.C. 1344). The Corps defines wetlands as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

DMLW Response:

Site boundaries will be modified to exclude the southeast portion of the site where Kirby Creek and the surrounding wetlands are located. This exclusion should eliminate the area where activity could have taken place in or otherwise affect waters of the U.S., including wetlands, but DMLW refers DOT&PF to consult with USACE as the authority on this matter. DMLW has passed this comment onto DOT&PF so they are aware of potential authorizations needed. If approved, the ILMA would not exempt DOT&PF from obtaining other necessary authorizations as well as compliance with all applicable laws and regulations.

DNR OHA Comment:

“The Office of History and Archaeology (OHA) has reviewed the subject project (dated August 31, 2021 and received September 15, 2021) for conflicts with cultural resources pursuant to Section 41.35.070 of the Alaska Historic Preservation Act. Following our review, we offer the following comments: State law requires all activities requiring licensing or permitting from the State of Alaska to comply with the Alaska Historic Preservation Act, which prohibits the removal or destruction of cultural resources (historic, prehistoric, and archaeological sites, locations, remains, or objects) on land owned or controlled by the State. This also includes reporting of historic and archeological sites on lands covered under contract with or licensed by the State or governmental agency of the State.

Upon review of the Alaska Heritage Resources Survey (AHRs) database, there are numerous sites near ADL 231512, but the project area has not previously been surveyed for cultural resources. As such, we strongly recommend an archeological survey be conducted prior to issuance of the decision document and the Interagency Land Management Agreement. A list of qualified cultural

resource professionals that can perform these services can be found on our website, or provided upon request.”

DMLW Response:

Comment received. It should be noted that this document is a preliminary decision of the re-designation of ADL 231512 and proposed ADL 215567. The recommendation from OHA will be passed onto DOT&PF.

Material Site and ILMA Discussion:

In 2012, AS 38.05.550-565 was enacted requiring a material site to be designated prior to execution of material sale contracts on state land. ADL 231512 is an existing rock quarry and gravel pit that was designated through the 2012 Omnibus Decision. This site is also serialized by DOT&PF as MS 583-015-1 and has been noted by this agency as one of the only road accessible state-owned rock quarry/riprap sites in the Susitna valley area. State records show that the site existed and was being used for gravel/riprap extraction starting around 1979. This is the timeframe of which an ILMA application is submitted by DOT&PF to DMLW for the continued use of this site. By 1988, the ILMA is yet to be granted by DMLW, and therefore a negotiated material sale contract (ADL 224203) is issued to DOT&PF for flood repair purposes, however no material is extracted.

The site was historically classified in order to make it eligible to convey to the MSB as part of their land entitlement. The site was relinquished as a selection by MSB in 2005 based off DOT&PF’s ongoing use and interest in the materials present in both the quarry and the gravel pit, which was acknowledged in MSB’s Talkeetna Lakes Park Management Plan.

ADL 231512 has been managed by DMLW as an active material site that is publicly available. Record of uses authorized by DMLW go back as early as July 1995 with ADF&G applying for a material sale contract for the public and charitable use for the construction of a boat launch. This application was closed by November of 1996 as the project was completed. Other documented use of ADL 231512 includes a trespass case (ADL 230424) for the taking of material without authorization in July 2007; a material sale contract application and application fee were subsequently submitted for the Comsat Road Quarry in January 2008 (ADL 230253) and application was again submitted in October 2015 without payment of application fee (ADL 232401). Both casefiles (ADL 230253 and ADL 232401) were closed and never issued due to lack of response from the customer.

Material sale contracts for the Comsat Road Quarry were recently authorized in 2017, 2019 and 2020. The sales contracts were specific to extraction of rock quarry/riprap, which was intended for use on the Talkeetna Dike Repair project, which is noted further below. The activities associated with the recently authorized contracts, are what spurred the community complaints that DMLW began receiving in late 2019.

This site has been most notably known for its riprap/rock quarry. This type of resource is commonly used for stabilization efforts at stream banks and roadways<sup>2</sup> and has been a primary source of suitable materials for flood emergencies in the area, for which the Talkeetna area is prone to and has been mapped as a flood hazard<sup>3</sup>. For example, ADL 232709 is an erosion control easement near the confluence of the Talkeetna and Susitna rivers. It should be noted that an easement of this type of infrastructure requires regular maintenance, involving placement of additional material resources, such as when DMLW issued a contract (ADL 232908) in response to MSB's bid for the Talkeetna Dike Repair project. To further exemplify the flooding risks in this area, MSB has entered into an agreement with the USACE for the Talkeetna Section 205 Flood Risk Reduction Study, beginning in June 2020. These studies have initially identified the need for infrastructure such as levees, which will necessitate the need for local riprap/rock quarry materials.

DMLW started receiving community complaints in November 2019 regarding the site and the authorized contractor's activities at the site. These complaints include but are not limited to noise, hours of operation, water quality/water aquifer concerns, air pollution/dust, site reclamation, contract enforcement, effects of blasting activities, conflicting State and Borough interests, agency permitting, and access.

To date, DMLW's responses and mitigating efforts have included:

- establishing a moratorium on the site in December 2019 (lifted by February 2020);
- notification to concerned community members and the Comsat Quarry Committee of any receipt of an application to use the site. DMLW has not received a material sale contract application in 2021 thus far;
- responding to numerous public records requests and correspondence;
- establishing additional stipulations on the contractor regarding blasting activities in coordination with concerned community members (last active material sale contract in ADL 231512 expired December 31, 2020);
- a commitment by DMLW, communicated to the MSB and concerned community members (through their respective attorneys), that if DMLW receives a material site contract application, DMLW will inform the applicant that DMLW cannot process the application due to the pendency of the community complaints;
- a commitment by DMLW, likewise communicated to the MSB and concerned citizens (through counsel) that the site will remain unavailable at least until all administrative appeal rights are exhausted on DMLW's final decision.

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<sup>2</sup> C. Manici, A. Nolen. Vegetated Riprap Survey of Highways in Southcentral and Interior Alaska. Juneau (AK): Alaska DOT&PF: 31 p.

<sup>3</sup> USACE-Alaska District. Alaska Baseline Erosion Assessment -Erosion Information Paper-Talkeetna, AK. October 26, 2007.

Re-designating ADL 231512 as a material site would allow for public input as DMLW considers future use, including issuance of ILMA ADL 215567 to DOT&PF, and if these actions are in the best interests of the State.

DOT&PF, as stated in their agency comment, has a continued interest in the site and DMLW recognizes the importance of this material site. The issuance of an ILMA to DOT&PF would allow for access to the site to protect DOT&PF managed interests.

**Public Notice of the Preliminary Decision:**

Pursuant to AS 38.05.945 Notice, this PD will be advertised for a 30-day public comment period. Notice will be posted on the Alaska Online Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and the post office located in Talkeetna. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on September 24, 2021 for a 30-day public comment period.

**Comments:**

This PD is subject to both public and agency comments, and all written comments received by the comment deadline will be addressed in the Final Finding and decision (FFD). Those who comment may be eligible to appeal the FFD. AS 38.05.035(i)(1-2).

**Written comments about this project must be received in this office no later than  
5:00 PM on October 25, 2021 to be considered.**

To submit comments, please choose one of the following methods:

Postal: Department of Natural Resources  
Division of Mining, Land and Water  
Southcentral Regional Land Office  
ATTN: Carol Hasburgh  
550 West 7<sup>th</sup> Avenue, Suite 900C  
Anchorage, AK 99501-3577

Email: [carol.hasburgh@alaska.gov](mailto:carol.hasburgh@alaska.gov)

Fax: (907) 269-8913

Questions regarding can be directed to Carol Hasburgh at (907) 269-8566.

If public comments result in significant changes to this PD additional public notice will be given. In order to be eligible to appeal the FFD, a person must provide written comments during the PD comment period as per AS 38.05.035(i)-(m).

Signature page follows.

**Recommendation:**

DMLW has completed a review of the information available, examined the relevant land management documents, and has found this project is consistent with all applicable statutes and regulations. DMLW considered three criteria to determine if this project provides the best interest to the State and the development of its natural resources. These include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. The direct economic benefit realized by the State is keeping a limited resource of rock quarry/riprap available in the Susitna region. The proposed project presents an indirect economic benefit to the State and promotes development of State resources by enabling DOT&PF to remove material from state land that will be used to maintain DOT&PF infrastructure and public highways. As there are no competing projects which are incompatible with ADL 231512 or ADL 215567, and in consideration of the benefits described above, DMLW finds that re-designating the existing material site and issuing an ILMA to DOT&PF provides the greatest benefit to the State. I find the proposed action may be in the State's best interest and recommend approval to proceed with public notice.

**Preliminary Decision:**

It is the determination of DMLW that it is in the State's best interest to re-designate ADL 231512 and to issue an ILMA to DOT&PF under ADL 215567. These requests shall now proceed to public notice.

  
Marty Parsons, Director  
DNR Division of Mining, Land and Water

9/23/21  
Date

**Attachment:**

Attachment A – Material Site Map



# Attachment A – Material Site Map

