

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
Division of Mining, Land and Water

NOTICE OF DECISION
RELEASE OF STATE INTEREST
State Selection File GS-4024

Partial Relinquishment of State Land Selection
AS 38.05.035(a)(11), ANILCA Sec. 906(f)(2), ALTAA Sec. 404(a)(4)(B)

I. Action

Proposed relinquishment of State's surface estate selection while retaining the State's subsurface selection on all minerals excluding sand and gravel in favor of Dingell Act allotment application AA-96122.

II. Authority

The 2019 John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act) (Pub. L. 116-9) provides that eligible Alaska Native Vietnam Veterans may request conveyance of Statehood Act land selections and that the State of Alaska (State) may voluntarily relinquish either fee title or surface estate interests to facilitate conveyance of the lands to the Native Veteran.

Lands were selected by the State under Sec. 6(b) of the Alaska Statehood Act (Pub. L. 85-508). The ability to relinquish Statehood Act selections was codified in Sec. 906(f)(2) of the Alaska National Interest Land Conservation Act (ANILCA) (Pub. L. 96-487). Sec. 404(a)(4)(B) of the Alaska Land Transfer Acceleration Act (ALTAA) (Pub. L. 108-452) provides that the State shall relinquish selections in excess of 125% of its remaining entitlement. The provisions of Alaska Statute (AS) 38.05.035(a)(11) allow the Director of the Division of Mining, Land and Water (DMLW) to manage Statehood Entitlement selections.

III. Background

The Dingell Act allows eligible Alaska Native Vietnam Veterans (applicants) to select up to 160 acres of federal land as an allotment. Available lands are those managed by the Bureau of Land Management (BLM), excluding lands withdrawn by Public Land Orders (PLOs), the Trans-Alaska Pipeline (TAPS) right-of-way, military withdrawals, Conservation System Units (CSU's) including the National Forests, and the National Petroleum Reserve-Alaska (NPR-A). Lands selected by the State or Alaska Native Claim Settlement Act (ANCSA) Corporations are classified as available regardless of priority status. The State and ANCSA Corporations have the option to relinquish or deny relinquishment of selections for any reason within 60 days of receiving BLM's request.

IV. Administrative Record

The selection file for State Selection GS-4024 constitutes the administrative record for this action.

V. Location

The allotment selection is located within DNR's Northern Region, within Section 27, Township 15 North, Range 16 West, Kateel River Meridian, Alaska.

USGS Map Coverage: Kotzebue C-1 NE 1:25000 scale

Platting Authority: Northwest Arctic Borough

Regional Corporation: NANA

Federally Recognized Native Village of Kotzebue

Village Corporation: Kikiktagruk Iñupiat Corporation

Please see Attachment A for a visual depiction of the allotment selection.

VI. Legal Description

Those lands totaling approximately 160 acres within the SE1/4 of Section 27, Township 15 North, Range 16 West, Kateel River Meridian.

VII. Selection History

- On Nov. 14, 1978, State selection GS-4024 was filed for all available lands within T. 15 N., R. 16 W. K.R. M.
- In Dec. 1978, Feb. 1979, and Oct. 1979, State reasserts and amends.
- On Oct. 29, 1980, State of Alaska Land Selections filed pursuant to Section 6(b) of the Alaska Statehood Act (72 Stat. 339), as amended. (Top filings pursuant to ANILCA.)
- On July 9, 1985, the State Selection application for the township was suspended until the village selection applications have been adjudicated.
- On Apr. 2, 1993, BLM issued Decision: States filing of no effect.
- On Dec. 20, 1993, The State reasserts, and amends land Selections filed pursuant to Section 6(b) of the Alaska Statehood Act (72 Stat. 339), as amended. (Top filings pursuant to ANILCA.)
- On Jan. 27 1994, BLM issued Stated Filing of No Effect for sections 26 through 29, 33, 34, and 35 of this township.
- On May 20, 2008, Village Selection on section 27 was relinquished pursuant to 403D of ALTAA and State Selection became valid.
- On Sep. 15, 2023, Realty Services received a request from BLM to relinquish approximately 160 acres for a Dingell Act allotment serialized as AA-96122. The proposed allotment lands are located on Baldwin Peninsula.
- The lands are currently selected under GS-4024 and are ranked as a priority 4.

VIII. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this decision. The proposed relinquishment documents were distributed to State agencies for review from Dec. 19, 2023, through Jan. 30, 2024. The intent of an agency review is to request comments from agencies that may be affected by the selection relinquishment. Agencies are given the opportunity to evaluate and comment on the relinquishment to

determine if it is in the State's best interest to release the land selection and, if so, provide supporting reasons.

The following agencies or groups were included in the agency review:

- **DNR Division of Oil & Gas**: Thank you for the opportunity to review the proposed relinquishment. The Division of Oil and Gas has no authorizations or pending applications on the proposed relinquishment, and no objections to relinquishment of the surface. The Division also concurs with Realty's decision to retain oil, gas, and mineral estates.
 - **DMLW Realty response**: Thank you for your comment.
- **DMLW Land Conveyance Section**: LCS has no objection to this proposed relinquishment.
 - **DMLW Realty response**: Thank you for your comment.
- **DMLW Water Section**: No comment from Water Section.
 - **DMLW Realty response**: Thank you for your comment.
- **DNR Division of Geological and Geophysical Surveys**: Mineral resource potential is not a concern here.
 - **DMLW Realty response**: Thank you for your comment. Realty intends to retain the State's selection on the subsurface estate, excluding sand and gravel.
- **DMLW Public Access, Assertion, and Defense (PAAD) Section**: PAAD has no comments regarding this requested relinquishment. There are no waters that would be considered navigable or public and there are no RS 2477's that cross or are near the parcel, an RS 2477 is about a mile to the west.
 - **DMLW Realty response**: Thank you for your comment.
- **Department of Fish & Game Access Defense Program**: The Alaska Department of Fish and Game (ADF&G) reviewed the request to relinquish 160-acres of state-selected land back to BLM for the purpose of conveying it to a valid Native Veteran Allottee. This parcel is located in Section 27, T. 15 N., R. 16 W., KRM which is on the Baldwin Peninsula between Kotzebue Sound and Hotham Inlet. ADF&G has no fish or wildlife resource concerns however, it appears there may be a Northwest Arctic Borough winter trail near (or possibly through) the selection. This trail is used for transportation between villages, hunting, fishing, and likely other uses. We recommend reaching out to someone in the Borough to see if this trail could be rerouted around the selection if it does happen to go through it. Thank you for the opportunity to review and provide comments.
 - **DMLW Realty response**: Thank you for your comment. Realty Services attempted to contact Northwest Arctic Borough Management on multiple occasions and received no response.
- **Department of Transportation, Statewide Right-of-Way**: Thank you for the opportunity to review the proposal. The Alaska Department of Transportation & Public Facilities has no comment at this time.
 - **DMLW Realty response**: Thank you for your comment.
- **DMLW Resource Assessment & Development Section (RADS)**: Thank you for the opportunity to review and comment on the Proposed Relinquishment of State-Selected Land to the Federal Government for Native Allotment AA-96122. The Resource Assessment & Development Section (RADS) has reviewed the available data, satellite imagery, and the applicable regional land use plan (the 2008 Northwest Area Plan) and provides the following comments. Background & Discussion: The proposed relinquishment is for parcel of Federal lands located within: SE ¼, Sec. 27, T. 15 N., R. 16 W., Kateel River Meridian, containing approximately 160 acres. The allotment application is located on a narrow portion of Baldwin Peninsula between Hotham Inlet and Kotzebue Sound about 17 miles from

Kotzebue. Lands in this township are managed by BLM and are either State Selected, or Topfiled by Village selections. There are a few parcels of private land in the northwest quad. The parcel is located within the 2008 Northwest Area Plan – specifically, the parcel is in Unit K-08. This unit is designated Habitat (HA) which converts to a land use classification of Wildlife Habitat Land. There are no anadromous streams near the parcel, but the parcel is very near Hotham Inlet, where several species of salmon and other fish are present. The management intent for this unit recommends that these lands be given special consideration for any impacts upon waterfowl, especially during the spring migration period. Consideration should also be given to the Western Arctic Caribou Herd and to other subsistence resources. Recommendation: Taking all the above into account, RADS concurs with the proposed voluntary relinquishment of the surface estate for these lands – Native Allotment AA-96122.

- **DMLW Realty response:** Thank you for your comment.
- **DMLW Northern Region Land Office:** Northern Region Lands Section has no objection to the relinquishment of this state selection. Thank you for the opportunity to comment.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR Division of Parks and Outdoor Recreation:** DPOR has no issues.
 - **DMLW Realty response:** Thank you for your comment.

The following agencies or groups were included in the agency review, but no comment was received:

- Department of Forestry
- Department of Agriculture

IX. Public Comment

Public notice of the proposed relinquishment was conducted from Dec. 19, 2023, through Jan. 30, 2024. The notice was posted to the State of Alaska Online Public Notice System. Copies of the notice were sent to the applicant, the Noorvik Post Office, Buckland Post Office, Kotzebue Post Office, Deering Post Office, Noatak Post Office, Kotzebue IRA Council Tupiq, Teller Traditional Council, Maniilaq Association, Native Village of Kotzebue, Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA) Regional Realty Office and Title Services Center, BIA Realty provider the Association of Village Council Presidents, Alaska Department of Natural Resources Commissioner office, Alaska State legislature, and adjacent landowners.

Public comments and DNR responses are provided here. Comments will be addressed individually or summarized by issue.

- No public comments were received during the comment period.

X. Discussion and Alternatives

The State is supportive of the federal Dingell Act Native Veteran allotment program and will relinquish selections when it is in the State's best interests. In addition, the State's land selections are currently over-selected, under federal law the State is required to relinquish selections in excess of 125% of the remaining entitlement. To reduce over-selection, the State will consider relinquishing surface estate interests in lower-priority state entitlement lands to facilitate conveyance to Dingell Act applicants.

The subject parcel is located within the 2008 Northwest Area Plan – specifically, the parcel is in Unit K-08. This unit is designated Habitat (HA) which converts to a land use classification of Wildlife Habitat Land. There are no anadromous streams near the parcel, but the parcel is very near Hotham Inlet, where several species of salmon and other fish are present. The management intent for this unit recommends that these lands be given special consideration for any impacts upon waterfowl, especially during the spring migration period. Consideration should also be given to the Western Arctic Caribou Herd and to other subsistence resources.

The subject lands appear to be crossed by a Northwest Arctic Borough winter trail near the selection (OTZ to BKC). This winter trail is used for transportation between villages, hunting, fishing, and likely other uses. Realty Services attempted to contact Northwest Arctic Borough land managers on multiple occasions to address the winter trail and received no response. There do not appear to be any physical markers for the location of the trail visible on satellite imagery and is likely identified by GPS position data, suggesting the trail can be rerouted around the parcel.

The allotment is located on a narrow portion of Baldwin Peninsula between Hotham Inlet and Kotzebue Sound about 17 miles from Kotzebue. Lands in this township are managed by BLM and are either State Selected, or Topfiled due to existing ANCSA Village selections. There are a few parcels of private land northwest of the allotment parcel.

The State relinquishing this selection to facilitate conveyance to the applicant is keeping in character with the surrounding mixed private and public land ownership pattern. The lands are ranked a low priority for acquisition. Relinquishment also supports the success of the Dingell Act Allotment program and provides an opportunity for a Native Vietnam War veteran to obtain an allotment that was denied due to circumstances related to military service.

The State considered the following alternatives in adjudicating the request for relinquishment:

Alternative 1: Relinquish the State’s land selection in full (both surface and subsurface).

Alternative 2: Maintain State land selection.

Alternative 3: Relinquish the State’s surface estate selection and maintain the State’s subsurface selection on all minerals excluding sand and gravel.

XI. Decision

This decision considers all public and agency review comments received. After considering the facts and input described above, the Department finds it is in the best interest of the State to choose Alternative 3 and relinquish the above-described state selection of the surface estate while maintaining the subsurface selection to facilitate conveyance of Dingell act allotment application AA-96122.

Recommended by:

Walter Zimmerman

Walter "Z" Zimmerman
Natural Resource Specialist 3
Realty Services Section
Division of Mining, Land and Water
Department of Natural Resources

3/26/2024

Date of Signature

Approved by:

Jane Boer
Realty Services Section Chief
Division of Mining, Land and Water
Department of Natural Resources

Date of Signature

Approved by:

Commissioner Boyle
Department of Natural Resources

Date of Signature

Reconsideration

An eligible person affected by this decision, and who provided timely written comment or public hearing testimony to the department, may request reconsideration to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any request for reconsideration must be received by the Commissioner's Office within twenty (20) calendar days after issuance of the decision under 11 AAC 02.040. The Commissioner may order or deny a request for reconsideration within thirty (30) calendar days after issuance of the decision. If the Commissioner takes no action on a request for reconsideration within thirty (30) days after issuance of the decision, the request for reconsideration is considered denied. The Commissioner's decision on reconsideration, other than a remand decision, is a final administrative order and decision of the department. An eligible person must first request reconsideration to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department.

Reconsideration/appeal may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918 or sent by electronic mail to dnr.appeals@alaska.gov. Reconsideration must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160(a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

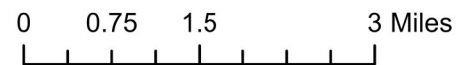
Attachment A: Vicinity Map Alaska Native Veteran Land Allotment Program Application AA-96122



Legend

 project location
AA-96122

**Section 27, Township 15 N.,
Range 16 W., Kateel River Meridian**



USGS QUAD 1:25,000
Kotzebue C-1 NE
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