

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

Division of Mining, Land and Water

NOTICE OF DECISION

RELEASE OF STATE INTEREST

State Selection File GS-2279

Partial Relinquishment of State Land Selection

AS 38.05.035(a)(11), AS 38.05.035(e), ANILCA Sec. 906(f)(2), ALTAA Sec. 404(a)(4)(B)

I. Action

Proposed relinquishment of State of Alaska (State) 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-97430

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 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. AS 38.05.035(e) provides authority for disposals of lands, resources, property, or interests in them. Article XIII of the Alaska Constitution provides guiding principles for maximum use of state lands and resources and authority for disposals of interests in lands and resources.

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 Available lands are those managed by the Bureau of Land Management (BLM), excluding lands withdrawn by Public Land Orders (PLOs), the Trans-Alaska Pipeline (TAPS) right-of-way, military withdrawals, Conservation System Units (CSU's) including the National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-2279 constitutes the administrative record for this action.

V. Location

The allotment selection is located in DNR's Southcentral Region, within Section 36, Township 52 South, Range 85 West, Seward Meridian.

USGS Map Coverage: Cold Bay C-1

Platting Authority: Aleutians East Borough

Regional Corporation: Aleut Corporation

Federally Recognized Tribe: Native Village of Nelson Lagoon

Village Corporation: Nelson Lagoon Corporation

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

VI. Legal Description

Those lands including approximately 160 acres on the west coast of the Aleutian Peninsula, in Section 36, Township 52 South, Range 85 West, Seward Meridian, Alaska.

VII. Selection History

- On Nov. 17, 1972, State Selection GS-2279 was filed for all available lands and those lands which may become available within T. 52 S., R. 85 W., S.M.
- On Dec. 29, 1978, Feb. 1, 1979, Oct. 23, 1979, and Aug. 17, 1981, State reasserts and amends GS-2279.
- On Jan. 19, 1983, BLM issued decision: Publication Directed.
- Affidavit of Publication received on Jan. 27, 1983.
- On Dec. 20, 1993, State Reasserts and Amends. Selection Topfiled pursuant to ANILCA.
- On Aug. 15, 2022, PLO 7912 partially revoked PLO 5180, Opening for Entry to Alaska Native Veteran Allotments Sec 1119 Dingell Act on Sept. 14, 2022.
- On Oct. 30, 2023, Realty Services received a request from BLM to relinquish approximately 160 acres for a Dingell Act allotment serialized as AA-97430. The proposed allotment lands are located on the west coast of the Aleutian Peninsula. The

parcel is north of the Cathedral River, north of the Izembek Wilderness, and approximately 20 miles northwest of Pavlof Volcano.

- The lands are currently selected under GS-2279 and are ranked as a priority 2.

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 Jan. 31, 2024, through March 5, 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 DMLW Southcentral Regional Land Office:** DMLW Southcentral Regional Land Office has no objection to the proposed relinquishment of the lands within Section 36, Township 52 South, Range 85 West, Seward Meridian.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR Division of Oil & Gas Leasing Section:** There is no objection from Leasing Section to the proposed relinquishment of the surface estate.
 - **DMLW Realty response:** Thank you for your comment.
- **Dept. of Transportation:** 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.
- **DNR DMLW PAAD Section:** PAAD has no comments regarding this potential relinquishment; there are no RS 2477's in the area and the allotment boundary does not contact the Cathedral River.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR Division of Geological & Geophysical Surveys:** I have briefly reviewed the Alaska Resource Data File. I have no concerns or comments from a mineral resource potential standpoint.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR DMLW Land Conveyances Section:** The Land Conveyance Section has no objection to Dingell Allotment AA-97430.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR DMLW Water Section:** The Water Section has no concerns with the proposed relinquishment of land.
 - **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 Agriculture

- Department of Fish & Game
- DNR DMLW RADS Section
- DNR DMLW Statewide Abatement of Impaired Land (SAIL) Section
- DNR DMLW Mining Section

IX. Public Comment

Public notice of the proposed relinquishment was conducted from January 31, 2024, through March 5, 2024. The notice was posted to the State of Alaska Online Public Notice System. Copies of the notice were sent to the applicant, the Nelson Lagoon, Cold Bay. Sand Point, and King Cove Post Offices, Aleut Corporation, Nelson Lagoon Corporation, Nelson Lagoon Village Council, Belkofski Corp., Belkofski Tribal Council, Adgaagux Tribe of King Cove, King Cove Corp., City of Cold Bay, City of King Cove, Aleutians East Borough Mayor, Aleutians East Borough Administration Director, Central Council of the Tlingit and Haida Indian Tribes of Alaska, Skagway Traditional Council, Bureau of Land Management (BLM) Bureau of Indian Affairs (BIA) Regional Realty Office and Title Services Center, Alaska Department of Natural Resources Commissioners Office, Alaska State legislature, and adjacent landowners.

No public comments were received during the public 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 parcel is not crossed by any accepted and codified RSTs, nor does it have any identifiable non-codified trails. The allotment does not significantly affect public access to nearby lands. There are no known uses of the uplands within the parcel, which is being actively eroded. The parcel was surveyed in 2001 and has lost approximately 20 acres in the ensuing years.

All the lands in this township with exception to the selected parcel are submerged. Surrounding townships consist of State-owned lands, and the Izembek National Wildlife Refuge managed by the BLM. The State relinquishing the surface estate of the parcel to facilitate conveyance to the applicant does not keep in character with the surrounding public land ownership pattern. Relinquishment and conveyance to the applicant would likely not create management difficulties due to the isolation of the area and the active erosion of the peninsula that has left the allotment parcel as a remnant upland parcel in a submerged township. 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-97430.

Recommended by:



Walter "Z" Zimmerman

Natural Resource Specialist 2

Realty Services Section

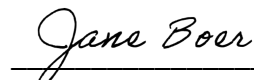
Division of Mining, Land and Water

Department of Natural Resources

9 April 2024

Date of Signature

Approved by:



Jane Boer

Realty Services Section Chief

Division of Mining, Land and Water

Department of Natural Resources

4/10/2024

Date of Signature

Approved by:



Commissioner Boyle

Department of Natural Resources

4/11/2024

Date of Signature

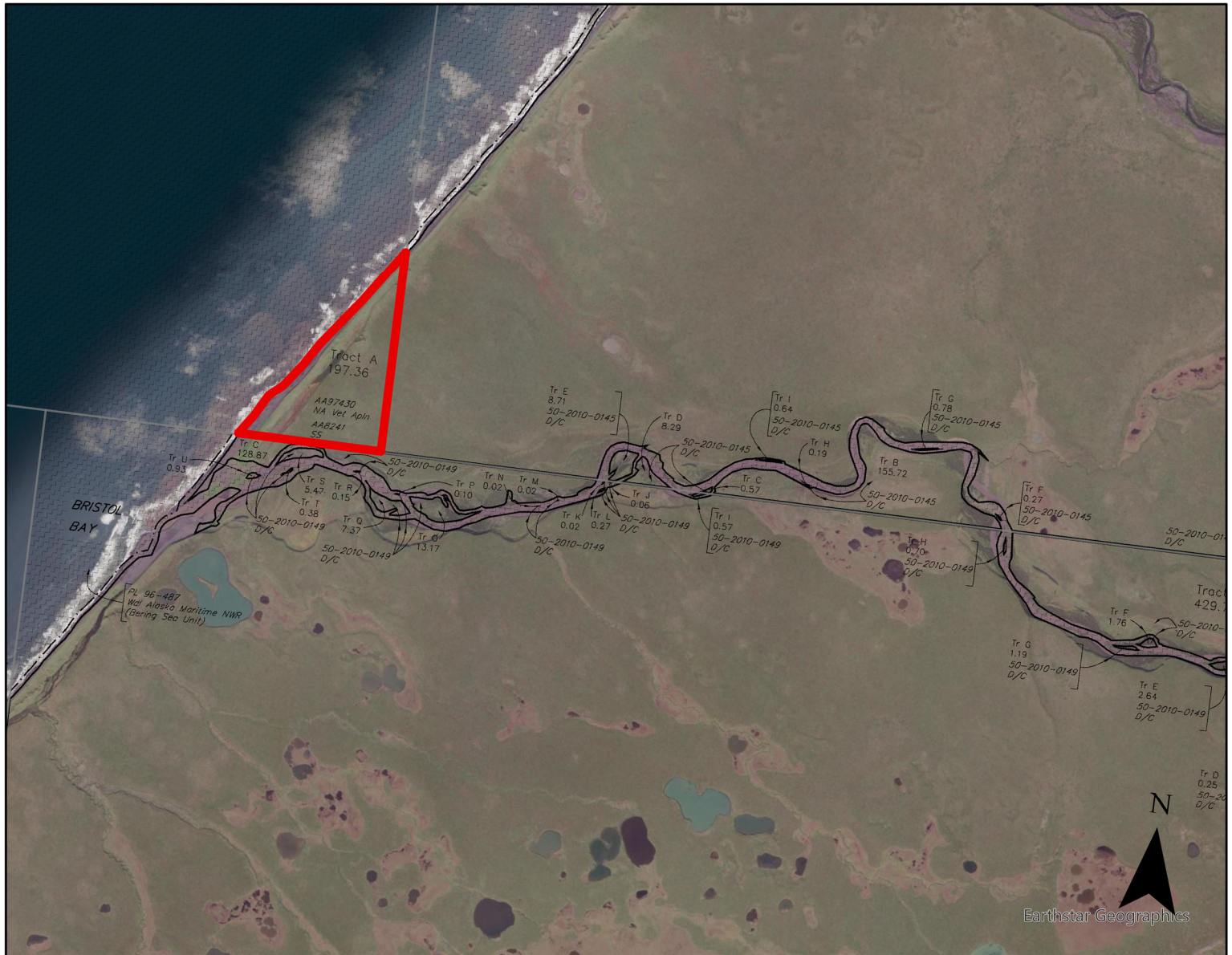
Reconsideration

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-97430



Legend

 project location
AA-97430

**Section 36, Township 52 S.,
Range 85 W., Seward Meridian**

0 0.4 0.8 1.6 Miles

USGS QUAD 1:25,000
Cold Bay C-1 NW
For more information contact:
Walter "Z" Zimmerman
Department of Natural Resources
Division of Mining, Land, and Water
Realty Services Section
Phone: 907-334-2550
Email:
walter.zimmerman@alaska.gov

