# STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND AND WATER SOUTHCENTRAL REGIONAL LAND OFFICE

# PRELIMINARY DECISION

#### ADL 234421

**Tony Dingess dba Revelation Mountain Outfitters** 

Application for Lease AS 38.05.070(b)

This Preliminary Decision (PD) is the initial determination on a proposed 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 11:59 PM November 6, 2024. Please see the Comments section of this decision for details on how and where to send comments for consideration. Only the applicant and those who comment have the right to appeal the Final Finding and Decision (FFD).

### **Proposed Action:**

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received a request from Tony Dingess dba Revelation Mountain Outfitters (hereafter abbreviated as "RMO") to lease 1 acre of land, more or less, for 10 years for the purpose of serving as a guide camp located along the southern bank of the Swift River, approximately 40 miles east/northeast of Lime Village, Alaska. The location of the project area is further described as being within Section 23, Township 16 North, Range 28 West, Seward Meridian. RMO is proposing to use this site for the continued use and maintenance of 6 separate, non-permanent structures to support guide camp operations.

An associated guide site leased by RMO, serialized as ADL 221779, sits under approximately 1-2 feet of water, due to past beaver activity. As such, RMO requests to relocate infrastructure from the ADL 221799 leasehold to this new, proposed location, ADL 234421, and modify the existing tent platforms into 4-sided, non-permanent structures. If ADL 234421 were to be issued, ADL 221779 would be closed. In total, the proposed development includes:

- Five total 12-foot by 16-foot buildings constructed with 2-by-4 (2-inches by 4-inches) frames, plywood sheathing, and metal siding.
- A 4-foot by 4-foot outhouse, constructed of plywood with wood floors and a metal roof, including a 5-foot hole/pit for human waste.

SCRO is considering the issuance of a 10-year, negotiated, non-competitive lease to RMO for the construction, operation, and maintenance of 6 structures supporting a guide camp.

## **Scope of Review:**

The scope of this decision is to determine if it is in the State's best interest to issue ADL 234421.

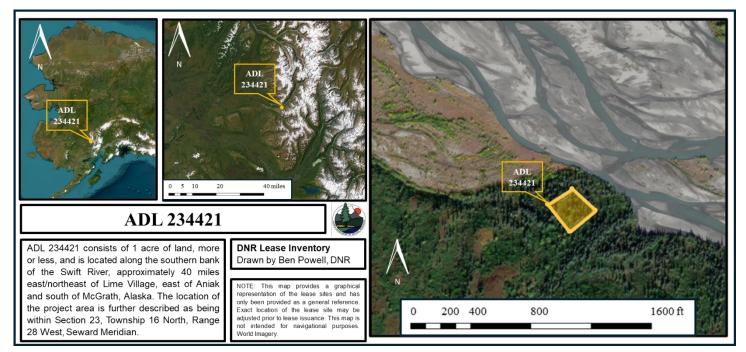


Figure 1: Overview Map of Project Area

### **Authority:**

This lease application is being adjudicated pursuant to AS 38.05.035(b)(1) and AS 38.05.035(e) Powers and Duties of the Director; AS 38.05.070(b) Generally; and AS 38.05.945 Notice.

The authority to execute the PD, FFD, and the lease has been delegated to the Regional Managers of DMLW.

#### **Administrative Record:**

Case file ADL 234421 constitutes the administrative record for RMO' lease application.

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the 1988 Kuskokwim Area Plan and other classification references described herein, and the casefile for the application serialized by DNR as ADL 234421.

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

The State land where this proposed lease is located is described as follows:

- Legal description: SW1/4 NW1/4 of Section 23, Township 16 North, Range 28 West, Seward Meridian
- Geographical location: approximately 40 miles east/northeast of Lime Village, Alaska.
- Approximate Lat/Long: 61° 27.7925' N, 154° 15.7292' W
- Area geographical features: predominantly alpine tundra
- Existing surveys: USRS S016N028W
- Municipality/Borough: Unorganized boroughs
- Native Corporations/Federally Recognized Tribes: Calista Corporation
- Size: 1 acre, more or less

## Title:

SCRO requested a title report from DMLW's Realty Services Section on July 9, 2024, which has not been received at the time of this decision. Should the title report note any major changes, they will be addressed in the FFD.

### **Third Party Interests:**

No third-party interests are known at this time.

### **Classification and Planning:**

The project area is subject to the Kuskokwim Area Plan, Management Unit 12 (South Alaska Range), Subunit 12a: Revelation Mountains-Swift Valleys (map number 3.12). The land use designation for the proposed lease is public recreation and wildlife habitat. Management Unit 12's resource allocation table notes that other uses such as material sales, land leases, or permits that are not specifically prohibited may be allowed, provided that they are consistent with the management-intent statement, the management guidelines of this unit, and the relevant management guidelines listed in the Kuskokwim Area Plan's Chapter 2. The management intent statement for Management Unit 12 indicates that state lands in this unit will be retained in state ownership and managed to support continued commercial, sport, and subsistence use of [wildlife], and public recreation (p 3-101). The management guidelines for Subunit 12a note that lands will be retained in state ownership and managed for multiple use with emphasis on wildlife habitat and

harvest, guiding, and public recreation (Subunit 12a – Revelation Mountains-Swift Valleys, p 3-101). Given the above management intent for Subunit 12A, and the fact that this proposal directly supports the listed, most-suitable activities (wildlife habitat and harvest, guiding, and public recreation), the development of this guide camp is thereby consistent with the land designation and management intent of the Kuskokwim Area Plan in general, and is specifically consistent with the applicable subunit management guidelines as well.

#### **Traditional Use Findings:**

Because the proposed lease parcel is not located within an organized borough, additional consideration is required under AS 38.05.830 to the potential effect of the lease on population density and traditional uses of the land.

The proposed leasehold falls within ADF&G Game Management Unit (GMU) 19C. In the 2024/2025 Alaska Hunting Regulations, ADF&G lists black bear, brown/grizzly bear, bison, caribou, moose, sheep, wolf, and wolverine as huntable species within the unit. The 2024/2025 Alaska Trapping Regulations for this GMU list beaver, coyote, red fox, lynx, marten, mink & weasel, muskrat, river otter, squirrel & marmot, wolf, and wolverine as eligible for trapping.

While some potential for conflict exists, RMO currently possess an active land use authorization, a lease serialized as ADL 221799, approximately 1.5 miles downstream from ADL 234421, which will be dismantled and relocated to this new location. Thus, no additional potential conflict with traditional uses should occur if the lease were to be authorized.

Additional traditional uses may be identified during the public notice period. If further traditional uses become known, they will be discussed in the final finding and decision.

#### Access:

Access to the leasehold is by wheel-equipped aircraft only. The airstrip is one mile upstream on the south side of the Swift River main channel. The runway is 1,200 feet long with a 3-foot cutback on the upper end.

### **Access Along Navigable and Public Waters:**

Nearly all shore and tide lands in the State of Alaska are subject to a To and Along easement (AS 38.05.127 and 11 AAC 51.045). The purpose of this easement is to uphold the constitutional right of the public to have free access to, and use of, the State's waterways. DNR's Public Access Assertion and Defense (PAAD) Section asserts that the Swift River is navigable, per AS 38.04.026, upstream of this location. As such, ADL 234421 is subject to a 50-foot continuous easement upland from the ordinary high waterline (OHW) of Swift River.

### **Public Trust Doctrine:**

Pursuant to AS 38.05.126, all authorizations for this site will be subject to the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected.

## **Agency Review:**

An agency review was conducted on July 15, 2024. The deadline for agency comments was August 3, 2024.

The following agencies were included in the review:

- DNR DMLW Land Conveyance Section
- DNR DMLW Mining Section
- DNR DMLW Public Access Assertion and Defense Section
- DNR DMLW Realty Services Section
- DNR DMLW Resource Assessment & Development Section
- DNR DMLW Statewide Abatement of Impaired Lands Section
- DNR DMLW Survey Section
- DNR DMLW Water Resources Section
- DNR DMLW Appraisal Section
- DNR DMLW Directors Office
- DNR Division of Agriculture
- DNR Division of Forestry & Fire Protection
- DNR Division of Geological & Geophysical Surveys
- DNR Division of Oil and Gas / State Pipeline Coordinator Service
- DNR Division of Parks and Outdoor Recreation / Office of History and Archaeology –
  State Historic Preservation Office
- Department of Environmental Conservation
- Department of Fish & Game
- Department of Transportation & Public Facilities
- U.S. Army Corps of Engineers
- U.S. Bureau of Land Management
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. Forest Service

- U.S. National Park Service
- U.S. National Oceanic and Atmospheric Administration National Marine Fisheries Service

A total of five agency comments were received during the review period and are summarized below:

**Comment:** On August 1, 2024, the Alaska Department of Fish and Game responded that "ADF&G has no objections to the issuance of this lease."

#### --ADF&G Recommendations—

"ADF&G reminds the applicant that the Swift River is documented as anadromous for multiple salmon species, extending over 6 miles upstream of their camp location. No major disturbances should be made to the stream or its braids. Any future in-water work requires a Fish Habitat Permit. For Fish Habitat Permit related inquiries, please contact the ADF&G Habitat office at (907) 459-7289 or dfg.hab.infofai@alaska.gov.

"ADF&G recommends avoiding conflict with wildlife: all fuel, trash, food, and any other potential wildlife attractants (including any petroleum-based products) should be properly stored. The use of bear-resistant containers and maintenance of a clean site will reduce the likelihood of nuisance encounters with bears and other wildlife. Completely removing all attractants when the site is unoccupied will further reduce risks. Information about staying safe in bear country and avoiding negative interactions, including the use of bear-resistant containers and electric fences, can be found on ADF&G's website (https://www.adfg.alaska.gov/index.cfm?adfg=livingwithbears.main). The applicant should report any nuisance wildlife interactions to ADF&G Division of Wildlife Conservation at https://www.adfg.alaska.gov/index.cfm?adfg=reportwildlifeencounter.main.

"Fish guts should be disposed of in the river downstream from the camp.

"Activities at the campsite should not impede or limit public access to the area for hunting or other recreational activities."

**Response:** SCRO acknowledges the comment and will ensure that the customer is informed regarding any potential fish habitat permit(s), avoiding conflict with wildlife, disposal of fish remains, and preserving public access.

Comment: On August 8, 2024, the Division of Geological & Geophysical Surveys Section responded that they have "reviewed the state mining claims records, the geologic map of Alaska (Wilson and others, 2015) and the Alaska Resource Data File (ARDF). The site of the new camp lies between two blocks of lapsed mining claims staked by Contango ORE in 2010 and lapsed after 2011. The company paid cash in lieu of annual labor. Two ARDF sites are documented in the area (LH006 and LH007) and, described as disseminated rare earth element-bearing accessory minerals in the Tired Pup pluton. Work is limited to reconnaissance sampling. The area has low, but non-zero, mineral resource potential. It is possible that the area will see renewed interest as the market for rare earth elements evolves. This assessment applies to the old camp location as well as the proposed new camp."

**Response:** SCRO acknowledges the comment and will ensure that the customer is informed regarding potential future mineral interests in the area.

**Comment:** On July 16, 2024, DNR's Water Section responded that "if the customer and activity plans to use a significant quantity of water, they will need to apply for a temporary water use authorization. Based on their described activity, with 5 to 6 people and low impact approach, it is unlikely that they will reach the significant quantity of water threshold of greater than 500 gallons per day for 10 days."

**Response:** SCRO acknowledges the comment and will ensure that the customer understands the threshold for water use and potential requirement for a temporary water use authorization.

**Comment:** On August 5, 2024, DNR SCRO's Permitting Unit responded that "Permitting has no objection to the issuance of this lease to Mr. Dingess as long as he keeps an active permit in the guide use area. Permitting would like to assure that a permit is required to operate outside the lease on general state lands, and that Mr. Dingess currently holds a cabin permit, LAS 34546, approximately 2.2 miles from the lease location. The permit allows up to two spike camps in the same Guide Use Area or within 50 miles of the base camp, in addition to the base camp itself. As long as he has a permit to operate outside the lease for big game hunting purposes, we have no objection to the issuance of this lease."

**Response:** SCRO acknowledges the comment and will ensure that the customer is reminded of said permitting requirements.

**Comment:** On July 16, 2024, DNR's Public Access Assertion and Defense (PAAD) Section responded that "There are no known RS 2477 ROW in the vicinity of this proposed permit location.

While the BLM determined the Swift River non-navigable but meandered the Swift River based on size. The PAAD Section disagrees with this determination and believes the river navigable, per AS 38.04.026, upstream of this location to within T18N, R26W, SM. The Swift River is navigable and public water per AS 38.05.127 as defined in AS 38.05.965 (14) and (21). Please ensure public trust access along the river is maintained in the new permit."

**Response:** SCRO acknowledges the comment, and notes that ADL 234421 is subject to a 50-foot continuous easement upland from the ordinary high waterline (OHW) of Swift River, thus preserving public access.

#### **Lease Discussion:**

RMO, Inc. is a business corporation in good standing, per the Alaska Department of Commerce, Community, and Economic Development's entity details. ADL 221799 was assigned to the current customer, RMO, in 2022, and it is located approximately 1.5 miles downstream of this new location for ADL 234421. Due to past beaver activity, ADL 221799 sits under approximately 1-2 feet of water. The customer requests to relocate infrastructure from the ADL 221799 leasehold to this new, proposed location, ADL 234421, and modify the existing tent platforms into 4-sided, non-permanent structures.

The proposed lease will be subject to the terms of SCRO's standard lease document (available for review upon request) and any stipulations based, in part, upon the following considerations.

### **Development Plan:**

The Development Plan (DP) attached to this decision (Attachment A) and dated April 8, 2024 is under consideration by SCRO. Should the proposed lease be granted, it is anticipated that the DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by SCRO before any construction, deconstruction, replacement of infrastructure, or change in activity. SCRO reserves the right to require additional agency review and/or public notice for changes that are deemed by SCRO to be beyond the scope of this decision.

## **Hazardous Materials and Potential Contaminants:**

The leasehold plans to utilize a 2000-watt portable gas generator, although fuel and other hazardous substances are not stored on site when not in use. All burnable trash is burned in a burn barrel. Any non-burnable trash is flown out. All human waste is contained in an outhouse with a 5-foot pit hole. In accordance with the Kuskokwim Area Plan and the Department of Environmental Conservation (DEC), outhouses, septic tanks, and other waste-disposal facilities must be sited to meet the DEC guidelines that require a 100-foot setback from wetlands and water

bodies. The proposed outhouse for this lease must be sited at least 100 feet away from the Swift River.

The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance, and must be removed from the lease site and disposed of in accordance with state and federal law.

#### **Lease Performance Guaranty (bonding):**

In accordance with AS 38.05.035 and AS 38.05.860, RMO will be required to submit a performance guaranty for the lease site.

- \$5,000.00 Performance Bond: This bond will remain in place for the life of the proposed lease. The bond amount is based upon the level of development, amounts of hazardous material and/or substances on site, and the perceived liability to the State. This bond will be used to ensure the applicant's compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, reappraisals, changes in the DP, changes in the activities conducted, or changes in the performance of operations conducted on the authorized premises, and as a result of any violations to one or more of the authorizations associated with this project.
- **Reclamation Bond:** SCRO is reserving the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

#### **Insurance:**

RMO will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. RMO will be responsible for maintaining such insurance throughout the term of the lease.

#### **Survey:**

In accordance with AS 38.04.045, this short-term land lease does not require a survey. However, the State of Alaska reserves the right to require one in the future, should the need arise due to changes in statutes or increased use of the area. The applicant will be required to submit GPS coordinate points for the rectangular leased area.

### **Compensation and Appraisal:**

A Minimum Rent Determination for this leasehold was completed on September 13, 2024. In accordance with AS 38.05.840(b), RMO will not be required to provide an appraisal for this lease site before lease issuance, and the proposed lease annual fee will be \$1,920.00 per Fee Schedule #2618. Furthermore, in accordance with AS 38.05.105, the proposed lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

#### **Visitor Day Use Fee:**

All commercial recreation authorizations are subject to a \$4.00/day "Visitor Day" fee under 11 AAC 96.250(18), for each client using state land. A Visitor Day is defined as meaning all or any part of a calendar day which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day. This fee is collected once a year and will be due on the same day as the annual fee.

#### **Subleasing:**

Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined as improvements not owned by the lessee that are located within the leasehold on the land or located on structures owned by the lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by SCRO. Depending on the activity of any potential subleases, SCRO is reserving the right to reevaluate the need for further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. Sublease compensation to the State will be determined by SCRO according to AS 38.05.073(m), under the authority of AS 38.05.075(a) Leasing Procedures. In any case, the sublease fee for commercial activities will not be less than 25% of the annual fee paid to leaseholder by the sublessee.

### **Assignment of Lease:**

The proposed lease, if issued, may be transferred or assigned to another individual or corporation only with written approval from the DMLW. A lease will not be assigned to an entity if that entity does not meet the statutory requirements of the lease, or if the lessee is considered not to be in "good standing" with DMLW or any other agency authorization. DMLW reserves the right to amend the terms of the lease prior to assignment.

#### **Reclamation:**

In accordance with AS 38.05.090(b), all lessees must restore their lease site to a "good and marketable condition" within 120 days after termination of the lease. What level of reclamation constitutes as being "good and marketable" is at the discretion of SCRO.

### **Public Notice of the Preliminary Decision:**

Pursuant to AS 38.05.945, 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 offices located in Aniak, McGrath, Port Alsworth, Sleetmute, and Stony River. Courtesy notices will also be mailed or emailed to neighboring property owners, permit/lease holders, and other interested parties on October 8, 2024, for a 30-day public comment period.

### **Comment(s):**

This decision is subject to both public and agency comments, and all comments received by the comment deadline will be considered in the FFD. Only those who comment and the applicant have the right to appeal the FFD.

# Written comments about this project must be received in this office no later than 11:59 PM on November 6, 2024 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 Region Office

ATTN: Ben Powell

550 West 7<sup>th</sup> Avenue, Suite 900C

Anchorage, AK 99501-3577

Email: ben.powell@alaska.gov

Fax: (907) 269-8913

Questions about the lease portion of this project can be directed to Ben Powell at (907) 269-8111.

If public comments result in significant changes to the Preliminary Decision, additional public notice will be given. To be eligible to appeal the Final Finding and Decision, a person must provide written comments during the Preliminary Decision comment period per AS 38.05.035(i)-(m).

Signature page follows

#### **Recommendation:**

SCRO has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. SCRO considered three criteria to determine if this project provided the best interest to the State and the development and enjoyment of its natural resources. The criteria include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. This authorization provides a direct economic benefit to the State with the collection of fees for ADL 234421 and an indirect economic benefit through the encouragement and development of the State's resources. The authorization of this lease is in the State's best interest as it will continue to provide development and enjoyment of the Revelation Mountains. It is recommended that SCRO issue a 10-year lease to RMO.

Ben Powell, Natural Resource Specialist 2

Date

### **Preliminary Decision:**

It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a short-term, negotiated, non-competitive lease for 10 years to RMO, as described above. Upon authorization of the lease, the applicant will be required to pay the annual lease fee of \$1,920.00, submit a \$5,000.00 performance bond, and provide proof of liability insurance. This Preliminary Decision shall now proceed to public notice.

Cinnamon Micelotta

10/08/2024

Cinnamon Micelotta, Acting Leasing Unit Manager Division of Mining, Land and Water, Southcentral Regional Office

Date

### **Attachments**

Attachment A – Development Plan Attachment B – Location Map



### DEVELOPMENT PLAN TONY DINGESS ADL 221799

My name is Tony Dingess and I own and operate Revelation Mountain Outfitters. This development plan is for ADL 221799 lease on state property. We plan to use this lease as a base camp operation for a commercial hunting business. The base camp will be used to access the surrounding area to take our clients on guided hunts.

Legal Description: The southeast ¼ of Section 16, Township 016N, Range

028W, Seward Meridian.

2. Terrain: Scattered spruce and cottonwood trees with some

Willows along creek edges. Grass and some moss on the

ground.

Access: The access to the site is by wheel equipped aircraft only.

The airstrip is one mile upstream on the south side of the Swift River main channel. The runway is 1200' long

with a 3' cutback on the upper end.

4. Structures: One wood cabin with metal siding and four wood floors

to put wall tents on.

Buildings: The 12' X 16' building is 2 X 4 frame with plywood

sheathing and metal on the outside of plywood to keep porcupines out. The foundation is logs laid on top of

ground, so no vegetation was disturbed.

Power Source: 2000 watt portable generator, Briggs & Straton (gas)

6. Waste types and Disposal: All burnable trash is burned in a burn barrel. Any non-

burnable trash is flown out. The human waste is all

contained in outhouse with 5' hole.

7. Hazardous Substances: There are no hazardous substances or fuel stored on

site.

8. Water Supply: Our water supply is a clear mountain fed stream

between site and the Swift River.

Parking and Storage: Aircraft parking is at downriver end of 1200' runway.

Absorbent pads are on hand if needed at the parking area in case there is a need for adding fuel to aircraft.

10. Maintenance & Operations: At the end of the season I make sure all camping gear is

stored in the building and all trash is flown out. I keep it very clean so there is very little maintenance needed.

11. Closure/Reclamation Plan: No disturbance of soils or ground cover has been

done. I would remove all structures and hand rake all

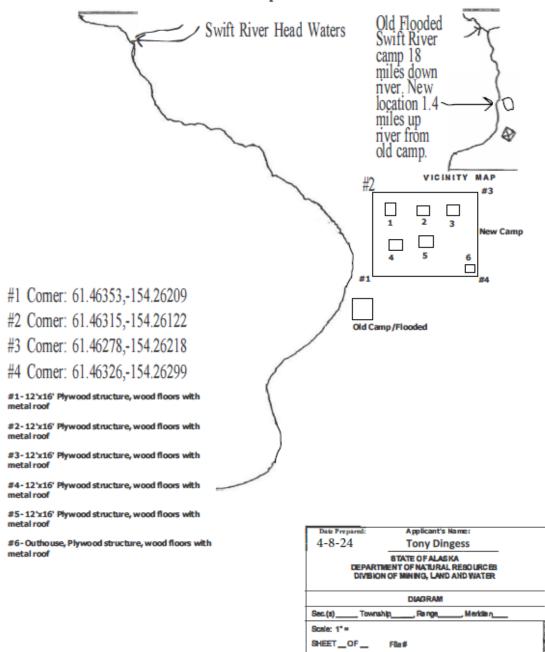
floor sites then bury and cover outhouse hole.

12. Number of People Using Site: The normal number of people using the site during the

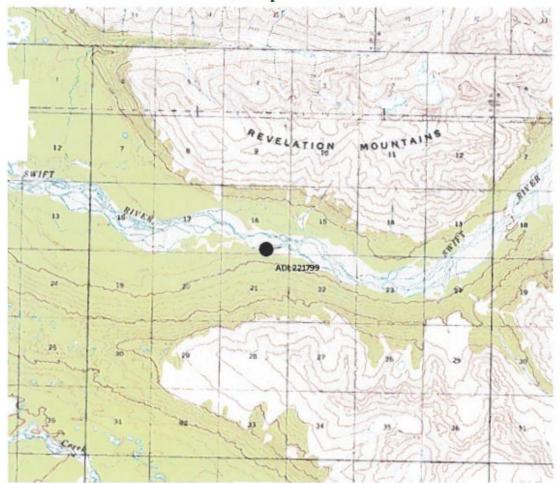
season is five to six, usually not all are at the site at the

same time.

#### Attachment A Development Plan



## Attachment A Development Plan



Lime Hills B-4



Location relative to Cook Inlet

#### ADL 221799

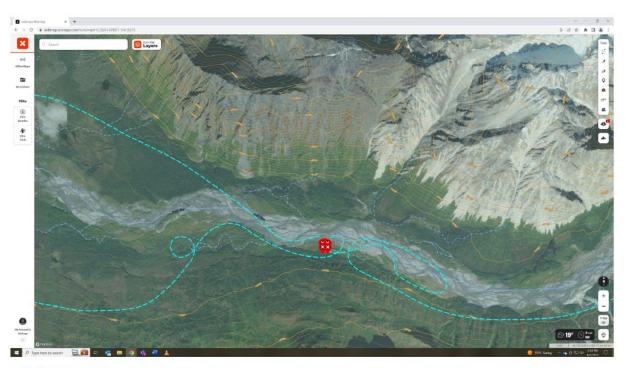
My name is Tony Dingess owner and operator of Revelation Mountain Outfitters. This is a 2-Part request to submit a new Development Plan for ADL 221799.

## Part 1

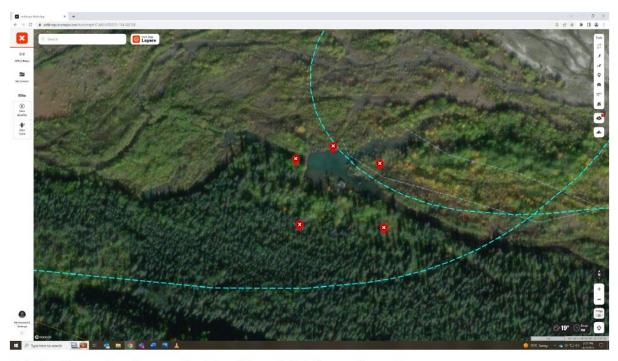
Due to past beaver activity, this camp is currently under about 1-2 feet of water. We are requesting permission to relocate the current camp to a new proposed location which is approximately 1.4 miles up river from the existing camp location. The new proposed area is higher in elevation and will allow us to keep camp cleaner, and dryer and improve overall guide and client safety. The existing camp will be completely relocated, and the area will be cleaned, and all debris will be removed.

#### Pictures Attached in this document:

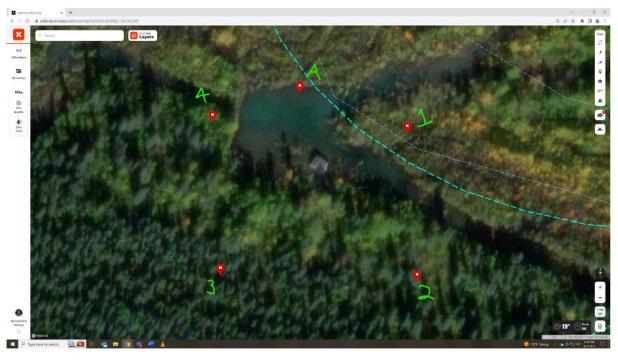
Existing Camp Location = Red Pins



**Existing Camp** 



Existing Camp showing wood cabin with metal siding under water



**Existing Camp Corners** 

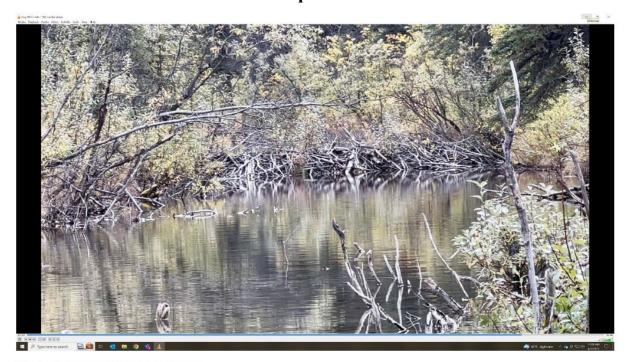




**New Proposed Camp Corners** 



Existing Camp, wood cabin with metal siding under water



One of many old beaver dams

## Part 2

While relocating the current structures from the existing camp location, to the new proposed camp location, we are requesting permission to convert the 4 wood floors for wall tents to hard sided plywood structures with metal roofs.

# **Attachment B Location Map**

