

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

NOTICE OF DECISION
RELEASE OF STATE INTEREST
State Selection File GS-2884

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-97996.

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 Available lands are those managed by the Bureau of Land Management (BLM), excluding lands withdrawn by Public Land Orders (PLOs), the Trans-Alaska Pipeline (TAPS) right-of-way, military withdrawals, Conservation System Units (CSU's) including the National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-2884 constitutes the administrative record for this action.

V. Location

The allotment selection is located in DNR's Southcentral Region, within Section 25, Township 17 North, Range 53 West, Seward Meridian.

USGS Map Coverage: Sleetmute C-8 SE

Platting Authority: Unorganized Borough

Regional Corporation: Calista

Federally Recognized Tribe: The Kuskokwim Corp.

Village Corporation: Chuathbaluk Traditional Council

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

VI. Legal Description

Those lands including approximately 160 acres on the south bank of the Kuskokwim River, in the northeast quarter of Section 25, Township 17 North, Range 53 West, Seward Meridian, Alaska.

VII. Selection History

- On Nov. 14, 1978, State selection GS-2884 was filed for all available lands within the south 1/2, T. 17 N., R. 53 W., S.M.
- In Dec. 1978, Feb. 1979, May 1979, and Oct. 1979, State reasserts and amends the selection.
- On Oct. 29, 1981, State-Selection GS-2884 was Top Filed pursuant to ANILCA.
- On Jan. 9, 1984, BLM directed publication of State Selection GS-2884. Affidavit of Publication issued on Feb. 23, 1984.
- On Dec. 20, 1993, State reasserts and amends.
- On May 12, 1994, BLM issued Decision: State's Filing of No Effect for sections 19 – 22 in this township.
- On July 5, 2024, Realty Services received a request from BLM to relinquish approximately 160 acres for a Dingell Act allotment serialized as AA-97996. The proposed allotment lands are located near Chathbaluk.
- The lands are currently selected under GS-2884 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 May 23, 2024, through June 28, 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 Parks and Outdoor Recreation:** DPOR has no issues.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR Division of Oil & Gas Leasing Section:** There is no objection from the Leasing Section to the proposed relinquishment of the surface estate.
 - **DMLW Realty response:** Thank you for your comment. Realty intends to retain the State's selection on the subsurface estate, excluding sand and gravel.
- **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:** The state holds clear title to the bed of the Kuskokwim River to the ordinary high-water mark adjacent to this parcel. The BLM issued Recordable Disclaimer of Interest (RDI) to the State of Alaska on June 12, 2013, confirming title transferred to the State of Alaska at the date of statehood under the equal footing doctrine and the submerged lands act of 1953. A copy of the disclaimer is available <https://dnr.alaska.gov/mlw/paad/nav/rdi/>. RS 2477 Crooked Creek-Aniak Trail RST 59 follows the frozen surface of the Kuskokwim River off of this parcel.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR DMLW Land Conveyances Section:** The Land Conveyance Section has no objection to Dingell Allotment AA-97996.
 - **DMLW Realty response:** Thank you for your comment
- **DNR Division of Geological and Geophysical Surveys:** The area under consideration is unconsolidated surficial deposits. This region is in a zone of isolated to sporadic permafrost, meaning that 0–50 percent of the ground surface may be underlain by perennially frozen ground (permafrost). Ground may range from ice-poor and thaw stable to thermokarst features of slumps, pits, and sinks. The parcel is located between the Denali and Iditarod-Nixon Fork faults, both with unknown slip rates. The region's overall seismic hazard potential is lower moderate. Standard best building practices should be used to accommodate the regional seismic hazard. This area has been subject to ash fall from erupting Alaska Peninsula volcanoes. Past ash events include Aniakchak 1931, Novarupta (Katmai) 1912, and multiple older tephras. Radon, a naturally occurring cancer-causing radioactive gas, is modeled to be low to moderate in concentration in this area (<https://maps.dggs.alaska.gov/radon/>). The Environmental Protection Agency's (EPA) Action Level for radon is 4 pCi/L; the EPA suggests homeowners consider radon mitigation for test results of 2–4 pCi/L. Any home, school, or building can have high levels of radon and should be tested.
 - **DMLW Realty response:** Thank you for your comment.

- **Department of Fish and Game Division of Wildlife Conservation:** The Alaska Department of Fish and Game (ADF&G) reviewed the proposed relinquishment of 160 acres of state selected lands located along the Kuskokwim River and in the vicinity of the village of Chuathbaluk in Sec. 25, T. 17 N., R. 53 W., SM. ADF&G has no interests created on this parcel and therefore has no concerns with the relinquishment of these lands. Access and use of RS 2477 Crooked Creek-Aniak Trail (RST 59) along the Kuskokwim should maintained. Thank you for the opportunity to review and provide comments.
 - **DMLW Realty response:** Thank you for your comment.
- **DNR DMLW RADS Section:** Thank you for the opportunity to review and comment on the proposed Dingell Allotment application (AA-97996). The Resource Assessment & Development Section (RADS) has reviewed the available geospatial data, land records, satellite imagery, and the applicable regional land use plan – the 1988 Kuskokwim Area Plan (KUAP) – and provides the following comments.
 Background: Robert Dean Lekander, represented by Donna R. Carpenter, has applied for a Dingell Allotment (AA-97996). The parcel contains approximately 160 acres and is located on state-selected lands south of the Kuskokwim River (Section 25 of Township 17 North, Range 53 West, Seward Meridian).
 The proposed allotment site is in unit 17-E in KUAP, which is designated as Public Recreation, Wildlife habitat, and Forestry, which converts to the classification of Public Recreation Land, Wildlife Habitat Land, and Forestry Land, respectively. There are known peregrine falcon nests, bear and moose concentrations, pockets of high value timber along the river, anadromous waters, and agricultural potential in this unit. This is one of the few state-selected sites on the Kuskokwim River in the southern half of the planning area. Kolmakof Lake also provides fly-in access to the subunit. The proposed allotment site is the only direct access point via the Kuskokwim River for many river miles to thousands of acres of state-owned lands south of the river. If this parcel were to be relinquished, it would cut off direct river access to the many of the state lands south of the river.
 The management intent for this unit is to protect the fish, wildlife, and scenic resources that are the basis for sport, commercial, and subsistence activities; to allow for continued use of these resources and other public recreation activities; and to minimize conflicts between potential uses. If conveyed to the state, this unit will be kept in state ownership and managed for multiple uses, including fish and wildlife habitat and harvest, public recreation, and where timber is available, forestry. Prohibited surface uses are land disposal and remote cabins.
 Recommendation: Based on the above area plan guidance, RADS opposes the relinquishment of the state selected land for Native Allotment AA-97996. Thank you for the opportunity to review.
 - **DMLW Realty response:** Thank you for your comment. There is a 17(b) easement about 12 river miles downstream that allows access through about one mile of ANCSA lands to public lands to the south but does not allow recreation. RSS is cognizant of this being the only parcel of State-Selected land on the south side of the river for many miles, as well as this being a primary access route for the unit 17-E in KUAP.

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

- Department of Agriculture
- DNR DMLW Statewide Abatement of Impaired Land (SAIL) Section
- DNR DMLW Water Section
- DNR DMLW Mining Section
- DNR DMLW Southcentral Regional Land Office

IX. Public Comment

Public notice of the proposed relinquishment was conducted from Sep. 24, 2024, through Oct. 25, 2024. The notice was posted to the State of Alaska Online Public Notice System. Copies of the notice were sent to the applicant, the Aniak, Sleetmute, Red Devil, and Chuathbaluk Post Offices, the Kuskokwim Corp, Kuskokwim Native Association, Association of Village Council Presidents, Inc, Chuathbaluk Traditional Council, Native Village of Napaimute, Crooked Creek Traditional Council, Sleetmute Traditional Council, Calista Land Department, Bureau of Land Management (BLM), 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.

There is very little State-owned land on the south side of the Kuskokwim River with direct river access. The closest river accessible State lands upstream from the proposed parcel are 24 river miles away. The closest river accessible State lands downstream from the parcel are 28 river miles away and that is a land locked parcel at Aniak with an airstrip and 17(b) easement. The nearest 17(b) easement from the Kuskokwim River to public lands is 12 river miles downstream.

The Kuskokwim River passes through Sections 5, 6, 8, 9, 10, 13, 14, 15, 16, 24, and 25 in the township. Most of the land adjacent to the Kuskokwim River are private ANCSA lands or are native allotments, with section 25 as the only section of public land on the south side of the river. The remaining lands in this township are managed by the BLM and are State Selected. The village of Crooked Creek is approximately 32 air miles to the northeast and the village of Chuathbaluk is approximately 15 air miles to the west.

The allotment selection contains the only unrestricted river access to public lands on the south side of the river in a 50-mile section. The State relinquishing the surface estate of the parcel to

facilitate conveyance to the applicant would likely have a significant adverse impact on public access to lands south of the Kuskokwim River. There are ANCSA Sec. 17(b) easements across Native Corporation lands within 12-15 river miles of the proposed allotment, however, those easements have restrictions on use and allowable activities. The restrictions would likely adversely affect the State's full use and development of its significant land holdings south of the Kuskokwim River.

Relinquishment would support 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. State relinquishment of selected lands is voluntary under the Dingell program. Whenever an allotment relinquishment is denied, DNR DMLW Realty Services Section is willing to meet with applicants and assist them in selecting a more appropriate parcel.

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 2 and maintain the State land selection and decline to relinquish in favor of Dingell Act allotment application AA- 97996.

Recommended by:

Walter Zimmerman
Walter "Z" Zimmerman
Natural Resource Specialist 2
Realty Services Section
Division of Mining, Land and Water
Department of Natural Resources

12/02/2024
Date of Signature

Approved by:

Jane Boer
Jane Boer
Realty Services Section Chief

12/11/2024
Date of Signature

Division of Mining, Land and Water
Department of Natural Resources

Approved by:


Commissioner Boyle
Department of Natural Resources

22 April 25

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>.

This is an aerial map of a coastal region in Alaska, specifically the Kuskokwim River area. The map displays several land parcels, each with a number and various annotations. Parcel 25 is highlighted with a red border. The map includes a north arrow and a scale bar.

Parcel 25 is highlighted with a red border. The annotations for this parcel are:

- 632.49
- AZ1474
- SS
- AA9706
- 100% NW A65

Other parcels and annotations visible on the map include:

- Parcel 23: 631.72, 2-23-04, 153-5320, 1-108.97, 50-23-0000, N41 East, D/C
- Parcel 24: 6-230.56, 350' ON-V, 50-2004-0282, 50-2005-0281, 550' East
- Parcel 19: 11.53, 1-613.50
- Parcel 20: 1-184.25
- Parcel 26: 632.98
- Parcel 29: 633.62, 159.84, 50-21-0224, N41 East, 550'
- Parcel 30: 2-282.99, 636.12, 1-184.75, 1-133.5
- Parcel 31: 636.12
- Parcel 32: 1-133.5
- Parcel 35: 153-5320, 1-108.97
- Parcel 36: 153-5320, 1-108.97

The Kuskokwim River is visible flowing through the lower right portion of the map. A north arrow is located in the bottom right corner, and a scale bar is located in the bottom left corner.

**Section 25, Township 17 N.,
Range 53 W., Seward Meridian**

0 0.25 0.5 1 Miles

