

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MUNICIPAL ENTITLEMENT**

**FINAL FINDING & DECISION
CONVEYANCE OF LAND UNDER AS 29.65.010**

**LAKE AND PENINSULA BOROUGH
MUNICIPAL ENTITLEMENT SELECTIONS
PRIORITIES 1 & 2
ADLs 226995, 227003, 227007, 227010, 227011, 227013,
227015, 227016, 227019, and 227033**

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD or decision) supplements the Preliminary Decision (PD) issued January 3, 2017 for the proposed actions, which are incorporated herein.

II. RECOMMENDED ACTION

In the PD, the Department of Natural Resources (DNR) originally proposed to convey 12,909 acres of state owned land to the Lake and Peninsula Borough (LPB or borough), and to reject and retain in state ownership 2,325 acres of borough selected lands. These actions have been modified by this Final Finding and Decision. After the PD was published, the borough and DNR held further discussions, and subsequently the borough elected to relinquish some of the lands proposed for conveyance in the PD. In addition, after further consultation with the borough and Alaska Department of Fish and Game (ADFG), DNR determined it was in the state's best interest to adjust some of the proposed conveyances for continuity and to provide better access.

This FFD determines that it is in the state's best interest to convey 7,719 acres of state owned land (Table 1) with management authority transferred upon the effective date of this decision (additional lands added to this decision are highlighted in RED); reject 1,586 acres of land (Table 2), which were determined to be either inappropriately classified or are essential for providing access required by law; and relinquish 6,340 acres of selected lands (Table 3) because the borough has determined these lands are no longer a priority.

The following anadromous streams and lakes identified by ADFG have been added to tables 3 and 4 of the preliminary decision:

- Priority 1, Map 2B: Springway Creek (#325-30-10100-2202-3431)
- Priority 1, Map 2B: unnamed stream in Sec 18, T.4N, R. 37W, SM. (#325-30-10100-2202-3420)
- Priority 2, Map 2: Little Mulchatna River (#325-30-10100-2202-3510-4136), unnamed stream in section 24 (#325-30-10100-2202-3510-4164), Ptarmigan Creek (#325-30-10100-2202-3510-4028)
- Priority 2, Map 3: Pile River (#324-10-10150-2341)

LANDS APPROVED FOR CONVEYANCE

The table below lists those areas that will be approved for conveyance to LPB with this decision. The final acreage determination will be identified at the time of survey. The final acreage amount is the net chargeable acreage that will be credited towards fulfillment of the LPB municipal land entitlement. The lands are subject to the applicable conditions, restrictions, and reservations as listed in the PD.

TABLE 1. Lands Approved for Conveyance			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 1/Map 1 Long Lake	T01N, R34W	25: That portion of Tract A in the E1/2 of Sec. 25	320
		36: That portion of tract A north of Long Lake and east of USS 8245 in Sec. 36 Note: Area west of USS 8245 rejected for conveyance.	50
Priority 1/Map 2A Mulchatna River	T05N, R35W	6: That portion of tract B west of the Mulchatna River in Sec. 6; That portion of Tract A east of the Mulchatna River in the N1/2 and the SW1/4 of Sec. 6	337
		7: That portion of Tract A east of the Mulchatna River in the W1/2 in Sec. 7	256
	T05N, R36W	1: That portion of Tract A in the SE1/4 of Sec. 1 (ADDITION)	160
		11: That portion of Tract A in the SE1/4 of Sec. 11	160
		12: That portion of Tract A that is west of the Mulchatna River and that portion of Tract B that is east of the Mulchatna River.	440
	13: that portion of Tract A west of the Mulchatna River in Sec. 13	6	
	14: That portion of Tract A west of the Mulchatna River in the NE1/4 of Sec. 14	140	

TABLE 1. Lands Approved for Conveyance (continued)			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 1/Map 2B Mulchatna River	T04N, R37W	3: That portion of tract A in the N1/2 of Sec. 3 excluding the bed of the Mulchatna River	300
		4: All of Tract A in Sec. 4 excluding the bed of the Mulchatna River (ADDITION – NW1/4)	440 160
		5: That portion of Tract A in the SE1/4 of Sec. 5 excluding the bed of the Mulchatna River	140
		7: That portion of Tract A in SE1/4 Sec. 7 (ADDITION)	160
		8: That portion of Tract A in the S1/2 of Sec. 8 excluding the bed of the Mulchatna River	300
		17: That portion of tract A in the NW1/4 of Sec. 17 excluding the bed of the Mulchatna River	140
		18: All of Tract A located within Sec. 18 excluding the bed of the Mulchatna River	600
		19: That portion of Tract A in the NW1/4 of Sec. 19 excluding the bed of the Mulchatna River	140
	T04N, R38W	24: That portion of Tract A within the E1/2 Sec. 24 excluding the bed of the Mulchatna River	300
		25: That portion of Tract A located in the N1/2 Sec. 25 excluding the bed of the Mulchatna River	300
26: That portion of Tract A located in the NE1/4 Sec. 26 excluding the bed of the Mulchatna River		140	
Priority 1/Map 3 Meadow Lake	T06S, R28W	22: Lot 1 located in Sec. 22	490
		23: Lot 1 located in Sec. 23	345
		27: Lot 3 within Sec. 27	25
		32: That portion of Lot 1 located in the E1/2 Sec. 32	270
		33: Lot 3 located in Sec. 33	50

TABLE 1. Lands Approved for Conveyance (continued)			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 1/Map 5 Kvichak River	T10S, R41W	35: The portion of Tract 1 east of the Kvichak River in the W1/2 of Sec. 35	250
	T11S, R41W	2: That portion of Section 2 located in the N1/2NW1/4 north of USS 8020 and excluding the Kvichak River (ADDITION)	60
Priority 2/Map 1 Tutna Lake	T03N, R35W	9: That portion of Tract A in the SE1/4 Sec. 9 excluding Nikadavna Creek	150
		15: That portion of Tract A in Sec. 15	70
		16: That portion of Tract A in Sec. 16 excluding Nikadavna Creek	320
Priority 2/Map 2 Chilikadrotna River	T06N, R30W	24: That portion of Tract A in the E1/2; That portion of Tract A in the E1/2W1/2 excluding the bed of the Chilikadrotna River	450
Priority 2/Map 2 Chilikadrotna River	T06N, R33W	13: That portion of Tract A in the N1/2 of Sec. 13 excluding the unnamed lake	250
Total Acres			7,719

LANDS TO BE REJECTED

The table below lists those areas that will be rejected and retained in state ownership because the state's interest in retaining these lands outweighs the borough's interest in obtaining them.

TABLE 2. Lands To be Rejected			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 1/Map 1 Long Lake	T01N, R34W	36: That portion of Tract A west of USS 8245 in Sec. 36	10
Priority 1/Map 2A Mulchatna River	T05N, R35W	6: Tracts C, D, E, F, G, H, I, J, N	65
		7: Tracts I, J, K, L, M, N	31
	T05N, R36W	12: Tracts D, E, F, G, H, I, J, K, L, M, N, O, P, Q located in Sec. 12	121
		13: Tracts R, S, and T located in Sec. 13	154
		14: Tract A located in the S1/2 Sec. 14; Tract B located in the SE1/4 of Sec. 14; Tracts S, T, U, V, X, Y, Z, A1, B1, C1, D1, and E1 located in Sec. 14	285
Priority 1/Map 2B Mulchatna River	T04N, R37W	8: That portion of Tract A in the NE1/4 of Sec. 8	140
	T04N, R38W	26: That portion of Tract A in the S1/2 of Sec. 26	300
Priority 2/Map 4 Koktuli River	T04S, R35W	20: That portion of Tract A in the SW1/4 of Sec. 20	160
		29: That portion of Tract A in the NW1/4 of Sec. 29	160
		30: That portion of Tract A in the NE1/4 of Sec. 30	160
Total Acres			1,586

LANDS RELINQUISHED BY THE BOROUGH

The table below lists those areas that will be retained in state ownership because the borough has relinquished the selections.

TABLE 3. Lands Relinquished			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 1/Map 2A Mulchatna River	T05N, R36W	13: that portion of Tract B East of the Mulchatna River in the NW1/4 of Sec. 13	65
Priority 1/Map 3 Meadow Lake	T06S, R28W	27: Lot 2 located within Sec. 27	345
		28: Lot 1 located within Sec. 28	470
		33: Lot 2 located in Sec. 33	230
Priority 1/Map 4 South of Iliamna	T09S, R35W	26: ALL	550
Priority 2/Map 2 Mulchatna River North	T08N, R33W	23: That portion of Tract A located in the N1/2 of Sec. 23; That portion of Tract B in the N1/2 of Sec. 23	300
Priority 2/Map 2 Chilikadrotna River	T05N, R30W	5: That portion of Tract A in the NW1/4 of Sec. 5 excluding the Chilikadrotna River	160
Priority 2/Map 2 Chilikadrotna River	T06N, R32W	22: That portion of Tract A north of the Chilikadrotna River in the SE1/4 Sec. 22; That portion of Tract B south of the Chilikadrotna River in the SE1/4 Sec. 22	150
		27: That portion of Tract A north of the Chilikadrotna River in the NE1/4 Sec. 27; That portion of Tract B south of the Chilikadrotna River in Sec. 27	140
Priority 2/Map 2 Chilikadrotna River	T06N, R34W	23: That portion of Tract A north of the Chilikadrotna River in the SE1/4 Sec. 23; That portion of Tract B south of the Chilikadrotna River in the SE1/4 Sec. 23	140
		24: That portion of Tract A north of the Chilikadrotna River in the SW1/4 Sec. 24; That portion of Tract B south of the Chilikadrotna River in the SW1/4 Sec. 24	140

TABLE 3. Lands Relinquished (continued)			
Priority#/Map# Area Name	Seward Meridian, Township, Range	Section(s)	Acres
Priority 2/Map 3 Pile River	T03S, R26W	1: NW1/4 of Section 1 excluding Lk Clark Nat'l Park, and excluding the bed of the Pile River	130
		2: Section 2 excluding the bed of the Pile River	640
		3: SE1/4 of Sec. 3 excluding the bed of the Pile River	160
		10: Section 10 excluding the bed of the Pile River	640
		15: All of Section 15 excluding the bed of the Pile River	160
		16: S1/2 of Sec. 16 excluding the bed of the Pile River	320
		21: Section 21 excluding the bed of the Pile River	640
		28: NW1/4 of Sec. 28 excluding bed of the Pile River	160
		29: Section 29 excluding the bed of the Pile River	640
		30: SE1/4 of Sec. 30 excluding the bed of the Pile River	160
Total Acres			6,340

This FFD determines that it is in the best interest of the state to convey 7,719 acres of state owned land to the Lake and Peninsula Borough. The lands will be transferred with equitable title upon the effective date of this decision. Equitable title allows the borough to have management authority, to execute conditional leases and make conditional sales, but does not allow the borough to dispose of lands until they receive patent from the state.

III. AUTHORITY

The authority for this conveyance of state land is pursuant to AS 29.65, and the authority for the Final Finding and Decision is pursuant to AS 38.05.035(e).

IV. PUBLIC NOTICE

Public notice has been accomplished in accordance with AS 38.05.945. Public Notice was published on the Alaska Online Public Notice System and the Preliminary Decision and attachments were available on the DNR DMLW Municipal Entitlement website until the deadline to receive comments, which was February 3, 2017. Public notice was also sent to the borough manager, clerk, and finance manager, regional and village corporations and associations, and posted in post offices in the subject area.

V. RESPONSE TO COMMENTS

• Comments from the Lake and Peninsula Borough

When the borough received the preliminary conveyance decision on January 4, 2017, 32,924 acres remained in their municipal entitlement. The State is proposing to transfer 12,734 acres to the borough from priorities one (1) and two (2). The borough recognizes that there are an additional 36,511 acres in priority three (3) which are not addressed in this conveyance. For this reason, the borough is opting to be conservative in the choices addressed in this conveyance. The information below provides our specific comments on the land proposed for conveyance.

• **Priority 1, Map 1:** The borough looks forward to receiving the conveyances as shown on the map.

• **Priority 1, Map 2A:** In section 13, the borough asks that the portion SE of the river be removed from the conveyance. The borough also requests to receive an additional ¼ section north of Section 12, west of Section 6.

DNR RESPONSE: DNR is willing to accommodate this request because the borough relinquished the selection in the NW1/4 of Section 13, and because the area in the southern half of Section 14 has been rejected for access reasons. The area is well suited for development and would provide the borough with more suitable lands than the relinquished areas.

• **Priority 1, Map 2B:** The borough requests to receive an additional ¼ section north of Section 18, along the Mulchatna River. The borough further requests to receive an additional ¼ section along the Mulchatna River in Section 4.

DNR RESPONSE: DNR is willing to accommodate this request. The borough made it known that they would like to receive these additional parcels to have more land that is suitable for development along the Mulchatna River. This would compensate for parcels DNR has rejected for access reasons in Section 8 and Section 26.

• **Priority 1, Map 3:** The borough suggests the state retain:
- SE portion of Section 33 along Meadow Lake
- SE portion of Section 27 along Meadow Lake
- Section 28 NW of Meadow Lake

The borough wishes to receive:

- Eastern portion of Section 32 along Meadow Lake
- All of Sections 22 and 23
- Add Section 24

DNR RESPONSE: DNR acknowledges the borough's relinquishment of selections in the SE portion of Section 33 along Meadow Lake, the SE portion of Section 27 along Meadow Lake, and NW of Meadow Lake in Section 28. DNR is unable to add Section 24 to the borough's conveyance because the borough has already relinquished this selection previously.

- **Priority 1, Map 4:** The borough requests to relinquish this selection.

DNR RESPONSE: Acknowledged.

• **Priority 1, Map 5:** Igiugig Village Council has requested the borough select more land in this section. The village of Igiugig is perched at the south west corner of Iliamna Lake at the mouth of the Kvichak River. If the water is too low or too high and swift, barges from Bristol Bay cannot make it all the way to Igiugig, and can only go as far as Kaskanak Flats; however, there is no way for the village to get to Kaskanak Flats over land. The village is proposing to build a road from Igiugig to the native allotment in Section 10, 11S, 41W, SM. This will allow the village better access to barged goods, and increase sustainability and stability, as it will allow them to barge in fuel and supplies, rather than flying them in. The village has requested the borough select more land in this area, so LPB is requesting:

- The portion of section 2 of 11S, 41W, from the boundary of the native allotment to the portion already selected in Section 35.
- In addition, the borough is requesting the following lands within 10S, 41W, SM:
 - o All of Section 35;
 - o The west half of Section 36; and
 - o The west half of Section 25.

DNR RESPONSE: DNR is willing to accommodate the borough's request for the addition of the portion of Section 2, 11S, 41W, along the eastern shore of the Kvichak River from the native allotment (USS 8020) to the selected parcel in section 35, T10S, R41W, SM. However, the additional parcels in sections 25, 35, and 36 in T10S, R41W, SM are quite large and will need to be addressed in a future decision.

- **Priority 2, Map 1:** The borough looks forward to receiving the conveyances as shown on the map.
- **Priority 2, Map 2 – S08N33W, Section 23:** The borough requests to relinquish this selection.

DNR RESPONSE: Acknowledged.

- **Priority 2, Map 2 – S06N34W, Sections 23 & 24:** The borough requests to relinquish these selections.

DNR RESPONSE: Acknowledged.

- **Priority 2, Map 2 – S06N33W, Section 13:** The borough looks forward to receiving the conveyances as shown on the map.
- **Priority 2, Map 2 – S06N32W, Sections 22 & 27:** The borough requests to relinquish this selection.

DNR RESPONSE: Acknowledged.

- **Priority 2, Map 2** – S05N30W, Section 5: The borough requests to relinquish this selection.

DNR RESPONSE: Acknowledged.

- **Priority 2, Map 2** – S06N30W, Section 24: The borough looks forward to receiving the conveyances as shown on the map.
- **Priority 2, Map 3** - The borough requests to relinquish this selection.
- **Priority 2, Map 4** – No comments.

DNR RESPONSE: Acknowledged.

The borough would like to thank the Department of Natural Resources for the effort and dedication to the spirit of cooperation in bringing together the many departments in the State while working on this overwhelmingly large project. We look forward to working with you on future conveyances.

- *Comments from the Alaska Department of Fish and Game*

The Alaska Department of Fish and Game (ADF&G) reviewed the Department of Natural Resources (DNR) Preliminary Decision (PD) to convey 16,650 acres of state land to the Lake and Peninsula Borough (LPB). DNR has determined that 12,909 acres are suitable for conveyance and the remaining 2,325 acres will be retained in state ownership for the benefit of the public. To maintain public access to state lands and waters, DNR has proposed the following reservations:

- 100-ft wide easement for RST #291 and RST #1876;
- 50-ft wide public access easements along navigable or public waterbodies;
- 50-ft wide section line easements;
- A 100-ft wide public access easement heading east from Long Lake to state land;
- Two 100-ft wide public access easements from Meadow Lake to state land;
- A 100-ft wide public access easement from an unnamed lake in Sec. 26, T. 9 S., R. 35 W., SM east to state land

DNR has also proposed to retain several parcels of land in state ownership along important water bodies to facilitate public use and access of the surrounding state lands and waters. DNR

will include language in the Final Decision which guides the LPB to consult with ADF&G prior to development of parcels which have been described to have important habitat for fish or wildlife species.

Tables 3 and 4 in the PD provide a list of navigable and public waters (respectively) and the proposed easement requirements. ADF&G noted that the following streams/lake are considered anadromous and should be updated in the tables:

- Priority 1-Map 2A: Springway Creek (# 325-30-10100-2202-3431)

- Priority 1-Map 2B: unnamed stream in Sec. 18, T. 4 N., R. 37 W., SM. (#325-30-10100-2202-3420)

- Priority 2-Map 1: Tutna Lake (# 325-30-10100-2202-3446-4052-0010)

- Priority 2-Map 2: Little Mulchatna River (# 325-30-10100-2202-3510-4136), unnamed stream in Sec. 24, T. 6 N., R. 30 W., SM (#325-30-10100-2202-3510-4164), Ptarmigan Creek (#325-30-10100-2202-3510-4089), unnamed stream in Secs 23 & 24, T. 6 N., R. 34 W., SM (#325-30-10100-2202-3510-4028)

- Priority 2-Map 3: Pile River (# 324-10-10150-2341)

Thank you for the opportunity to review and provide comments.

DNR RESPONSE: LPB has relinquished some of the lands where ADFG has requested borough consultation prior to development. For those lands approved for conveyance in important riparian habitat areas, DNR has advised the borough in this FFD that they should contact ADFG prior to development to discuss wildlife impact mitigation.

VI. DISCUSSION AND FINAL FINDING AND DECISION

In this decision DNR has determined that it is in the state's best interest to convey 7,719 acres of state owned land (Table 1) with management authority transferred upon the effective date of this decision. These lands are important for the borough to continue to build its community and prosper. The 7,719 acres will be credited towards LPB's municipal entitlement.

The Department has also determined that it is appropriate to reject 1,586 acres of borough selected lands for a variety of reasons. First, in the Koptuli River area depicted on Priority 2, Map 4, the selection is classified Minerals and therefore is inappropriately classified for conveyance. Second, there are borough selections on lands that if conveyed would create isolated parcels of borough land surrounded by land in different ownership, which may encourage trespass or otherwise cause conflicts that could be difficult to manage. This scenario would not be beneficial to the borough, the state, or any other affected

land owner. And finally, it is imperative that the state reserve access to waterways within Alaska. Certain areas selected by the borough, if conveyed, would present challenges for the public to use important waterways, therefore DNR has elected to retain these areas in state ownership. These issues are discussed at length in the Preliminary Decision.

Additionally, DNR acknowledges LPB's request to relinquish 6,340 acres of selected lands (Table 3) because these selections no longer align with the borough's priorities. These lands will not be credited towards LPB's municipal entitlement and cannot be selected for conveyance to the borough in the future.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the state's best interest to proceed with the conveyances identified in this FFD under the authority of AS 29.65.010.



Recommended by:
Nina Brudie, Manager
Municipal Entitlement Unit



Date



Approved by:
Monica Alvarez, Section Chief
Resource Assessments & Development



Date

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of the issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Andrew T. Mack, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.

ATTACHMENTS

Vicinity Maps 1-2

Priority 1/Maps 1-5

Priority 2/Maps 1-4