

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

**PRELIMINARY DECISION  
PROPOSED CONVEYANCE OF  
MENTAL HEALTH TRUST REPLACEMENT LAND  
ADL 418161**

**ASSOCIATED ACTIONS  
Proposed Area Plan Amendment  
AS 38.04.065  
Reclassification of Land  
AS 38.05.300  
Amendment of Mineral Order 1054  
AS 38.05.185**

**Proposed Action:**

The Division of Mining, Land and Water (DMLW) of the Alaska Department of Natural Resources (DNR) proposes to convey a parcel of state land (63 acres) having a value of \$21,547.50 to the Mental Health Trust Authority (Trust Authority) in partial fulfillment of the state's obligation under the 1994 Settlement Agreement<sup>1</sup> between the State of Alaska and the Settling Plaintiffs to the Mental Health Trust Land litigation. Under this Agreement, the state is required to compensate the Trust Authority for parcels of Trust Land that were conveyed in error by DNR or that have been determined to contain hazardous materials. In a previous decision (June 2006, ADL 229606), it was determined that state land valued at upwards of \$5.272 million may need to be conveyed to the Trust to compensate for Trust Land returned to DNR.

Once conveyed, this land will become Mental Health Trust Land (Trust Land) and will be used by the Trust Authority to generate revenue for the beneficiaries of the Mental Health Trust. When conveyed, it becomes subject to the requirements for Trust Land management, specified in AS 38.05.801 and in Administrative Code under 11 AAC 99.020, and will be managed consistent with the Trust's fiduciary responsibilities.

Several separate, related decisions are necessary to implement the recommendations of this Preliminary Decision. Amendment of the Tanana Basin Area Plan will be required. The plan's boundary will be expanded to include the area occupied by this parcel. Amendments to a current Land Classification Order will also be necessary, to classify

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<sup>1</sup> Settlement Agreement and Stipulations to Terms of Dismissal in Civil case No. 4FA-82-2208 in the Superior Court of the Fourth Judicial District. (June 10, 1994)

this parcel to Settlement Land. Finally, an amendment to Mineral Order 1045, which closes Mental Health Replacement Land to mineral entry, will be required. These actions are noticed with this decision.

The public is invited to comment on the Preliminary Decision and on any of the associated actions. The deadline for comments is **January 28, 2008**; see page 7 for details on how to send comments and where they should be sent.

### **Authority**

DNR proposes to convey state land to the Trust Authority in accordance with Section 40, Chapter 5, FSSLA 1994 as amended by Sections 4 and 5, Chapter 1, SSLA 1994; the Settlement Agreement between the state and the Settling Plaintiffs (Articles III and IV(4)); AS 38.05.801(b)2 and 3; AS 38.05.035(e); and AS 38.50. These documents are available for review at the address given in the Public Notice paragraph of this decision.

### **Administrative Record**

The administrative record includes the parcel file of the state land under consideration for conveyance. These files are available in the Resource Assessment and Development Section in the Division of Mining, Land and Water. Also incorporated by reference are applicable DNR area plans, the Settlement Agreement between the state and the Settling Plaintiffs (June 1994), Department Order #142 (Management of Mental Health Trust Land), and Replacement Land Process (January 2, 2000) between the Division of Mining, Land and Water and the Trust Land Office.

### **Scope of Decision**

The scope of this decision is limited to deciding if it is in the best interest of the state to convey certain parcels of land to the Trust in order to satisfy, in part, the state's obligation to compensate the Trust for parcels conveyed in error or that contain hazardous substances, which may total upwards of \$5.2 million.

### **Background**

Pursuant to the 1994 Settlement Agreement, the state is required to compensate the Trust Authority for state land that was conveyed in error or that has been found to contain hazardous materials since the conveyance of state land to the Trust Authority in 1994. In a previous DNR Final Finding and Decision (FFD)<sup>2</sup> it was determined that numerous parcels of state land had been conveyed in error or contained contaminated material and that the state may need to compensate the Trust Authority with other state land having a value of \$5.2 million. The 2006 FFD also identified state land that can be used as compensation to the Trust Authority for such parcels in the amount of \$5.99 million. Based upon prior experience, the amount owed the Trust Authority has typically

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<sup>2</sup> ADL 229606; June 12, 2006.

exceeded the value of the state land identified in prior DNR decisions for compensation. For this reason DNR, in the 2006 FFD, determined that the use of the higher value amount of \$5.99 million would be useful as a contingency in the event that more parcels were found to have been conveyed in error or to contain hazardous materials subsequent to the 2005 assessment.

This decision complements and is based upon the findings of the 2006 FFD that dealt with Mental Health Trust Replacement Land ([www.dnr.state.ak.us/mlw/planning](http://www.dnr.state.ak.us/mlw/planning)). It adds, if approved, \$21,547.50 to the inventory of state land to be used as compensation to the Trust Authority, to create a total value inventory of \$6.15 million. See that document for details on the state land to be conveyed to the Trust Authority. Also see the Preliminary Finding and Decision on Mental Health Trust Replacement Land at [www.dnr.state.ak.us/mlw/planning/mhlands](http://www.dnr.state.ak.us/mlw/planning/mhlands) for details on the background of the Mental Health settlement, the requirement for compensation for parcels conveyed in error or containing hazardous materials, and for a discussion of how land is nominated as replacement land and how such land is validated by DNR.

The parcel that is the subject of this Preliminary Decision has been nominated as Replacement Land by the Trust Land Office (TLO) for the purposes of consolidating the management of adjacent Trust Land and to allow the expansion of the pit area of the Fort Knox gold mine managed by Fairbanks Gold Mining Inc. (FGMI). An area of gold ore concentration occurs within the current configuration of the mine, but in order to access this area an adjacent tract to the west must be secured in order to have sufficient area to contain the side slopes from the area of ore body excavation. It is this area that is the subject of this decision. FMGI now operates under an upland mining lease originally issued by DNR but now managed by the TLO for the area of the Fort Knox mine. The land associated with this parcel is owned by the Federal government, but has been selected by DNR for conveyance to the state.

This parcel is affected by a Public Land Order (PLO 6709) which is intended to be removed by BLM within the next 30 days. When this occurs the land will be subject to a state land selection and the land will be conveyed by BLM to DNR. This decision provides for the disposal of this land, in turn, to the Trust Authority.

### **Description**

Attachment A provides details on the characteristics of the two parcels that are proposed to be conveyed to the Trust Authority.

- a. Location and Geographic Features. The parcel occupies an area adjacent to the Fort Knox gold mine, which is situated north of Fairbanks by approximately 25 miles northeast of Fairbanks. The parcel is generally level to slightly rolling, occupies vacant land, and is vegetated by low shrub, characteristics of (forested) palustrine wetlands.
- b. Title. This parcel is now in federal ownership and is affected by a Public Land Order (PLO 6709) that currently precludes conveyance to the state. However,

federal agencies no longer require this area for continued use as a radar site and have agreed to the removal of the PLO. Once the PLO is lifted, the BLM will convey this land to DNR. This decision permits DNR to dispose of state land and convey this land, in turn, to the Trust Authority.

- c. Planning. This parcel is not affected by an area plan, which in this area is the Tanana Basin Area Plan. A Plan Amendment will accompany the Final Finding and Decision that will expand the boundary of management subunit 1J4 to include this parcel. The plan designation will be Settlement.
- d. Classification. As indicated, this area is not included within the Tanana Basin Area Plan and does not have a land classification currently. A land classification order will accompany the FFD to classify the parcel Settlement Land.
- e. A coastal zone consistency determination is not required for this action. Land conveyed to the Mental Health Trust, including Replacement Land, is categorically exempt from coastal zone consistency review. The actions proposed in this decision fall under the 'A List' category of coastal zone reviews, which lists all actions exempt from coastal zone review.
- f. Mineral Orders. Under Department Order 142<sup>3</sup>, Mental Health Replacement Land is to be closed to mineral entry. An amendment to Mineral Order 1045, which closed state land to mineral entry in the 2006 FFD, will be required to include the this parcel in the Mineral Order.
- g. Traditional Use Finding. A traditional use finding is not required; this parcel is within an organized borough (North Star).
- h. Access. Road access from the south exists to the parcel; an RS 2477 route (RST 644) appears to occupy portions of the site. The site does not contain public or navigable waters.

Parcels conveyed to the Trust Authority are to be subject to the requirements of AS 19.10.010 (section line easements) and more specifically to 11 AAC 51.025. That portion of the parcel adjoining a protracted section line easement is affected by this requirement. There are no state interests of record.

- i. Reservation of Mineral Estate. In contrast to the vast majority of disposal decisions made by DNR, the Trust Authority obtains the fee estate. Accordingly, the mineral estate *is* to be *conveyed* to the Trust Authority in this decision.
- j. Hazardous Materials and Potential Contaminants. There are no known environmental contaminants present on the parcel. In the event that hazardous

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<sup>3</sup> Several mining claims, known as 'at risk' claims currently affect this parcel. Typically, these are carried over when the land is conveyed to the state but the MO will close this land to mineral entry.

materials are subsequently discovered, the Settlement Agreement provides for the re-conveyance of the affected parcel(s) by the Trust Authority back to DNR.

- k. Survey. Survey is not an issue in this decision since AS 37.14.009(a)(4) exempts conveyance to the Trust Authority from survey requirements.
- l. Compensation/Appraisal. The estimated value of this parcel is \$21,547.50; this value is derived from a per acre value associated from an adjacent 1994 Settlement parcel. The parties have agreed to use the value estimates associated with the 1994 Settlement Legislation for purposes of establishing parcel value.

### **Agency Comments**

No agency comments were received.

### **Discussion and Alternatives**

The Fort Knox parcel has been nominated as Replacement Land by the Trust Land Office (TLO) for the purposes of consolidating the management of adjacent Trust Land and to allow the expansion of the pit area of the Fort Knox gold mine managed by Fairbanks Gold Mining Inc. (FGMI). An area of gold ore concentration occurs within the current configuration of the mine, but in order to access this area an adjacent tract to the west must be secured in order to have sufficient area to contain the side slopes from the area of ore body excavation. It is this area that is the subject of this decision.

Essentially two options exist: either to approve or disapprove the conveyance of this parcel. Approval would include the stipulations noted in the 'Access' portion of this decision.

- Do Not Approve. If this parcel is not conveyed, the expansion of the Fort Knox mine to the west, to access an ore body, could not occur. With the expansion, mining could continue and with it, continued mining employment, royalty payments to the Trust Authority, and local taxes paid to the North Star Borough. This option, from a state perspective, is not desirable. Forgoing these monetary benefits and precluding continued mining employment is not in the best interest of the State.
- Approve. Approval of this disposal is in the best interests of the state, for the reasons stated above.

**Recommendation.** For the reasons described above, I find that it may be in the state's best interest to convey this parcel to the Trust Authority subject to the stipulations noted in the 'Access' section of this decision, and I authorize this Preliminary Decision to move forward to public review.

This is a preliminary decision and subsequent public review may result in changes to the preferred alternative or to the decision altogether. A Final Finding and Decision is to be prepared following public review. It is intended that a Plan Amendment to the Tanana Basin area plan , a land classification order, and a modification of Mineral Order 1045 will accompany the FFD, if it is determined that the conveyance of these parcels is found to be in the state's overall best interest.

*Bruce Rubin*

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Chief, Resource Assessment and Development Section

December 19, 2007

Date

## **Public Notice, Decision, and Appeal Procedures**

Public notice, required under AS 38.05.945, is now being conducted. Notice will be sent to newspapers (Fairbanks Daily News-Miner), post offices, local governments, and native organizations. Public notice on the Internet will be posted on the State's web page under *Online Public Notice* and under DNR's public notice site at <http://www.dnr.state.ak.us/pic/pubnotfrm.htm>

The public is invited to comment on the decision to convey a parcel of state land comprising 63 acres to the Mental Health Trust Authority. The public is also invited to comment on the proposed plan amendments, land classification order, and mineral order that will be required to enable conveyance. Any comments must be received in writing or e-mail by the Division of Mining, Land and Water, Attention: Bruce Phelps, 550 West. 7<sup>th</sup> Avenue, Suite 1050, Anchorage, AK 99501-3579 on or before **5:00 p.m., January 28, 2008** in order to ensure consideration. If you have any questions concerning this proposed action, contact Bruce Phelps at 1-907-269-8592 or email [bruce.phelps@alaska.gov](mailto:bruce.phelps@alaska.gov)

Following the comment deadline, all written responses will be considered and this decision may be modified to incorporate public comments. Subsequently a Final Finding and Decision (FFD) will be issued that evaluates the agency and public comments and that identifies the final recommendations of the Department. Only persons who comment during the public comment period will be eligible to file an administrative appeal of the Final Finding and Decision. A copy of the final decision will be sent to any person who comments on the preliminary decision. The final decision will include appeal instructions.

The Department of Natural Resources is prepared to accommodate individuals with disabilities by providing auxiliary aids or services when requested. Individuals with audio impairments who wish to respond to this decision by telephone may call the department's Public Information Center in Anchorage between the hours of 10:00 a.m. and 5:00 p.m., Monday-Friday, at TDD# 1-907-269-8411.

Attachments:

Attachment A: Table - Parcel Attributes

**ATTACHMENT A**

**PARCEL DESCRIPTION**

|                          |   |
|--------------------------|---|
| <b>Acres</b>             | 63  |
| <b>General Location</b>  | Fort Knox, north of Fairbanks   |
| <b>Community</b>         | Fairbanks   |
| <b>MTRS</b>              | F002N002E: Section 20   |
| <b>Legal Description</b> | <p>A portion of Section 20, Township 2 North, Range 2 East, Fairbanks Meridian, Alaska, lying west of Tract C-3 as depicted on the Alaska State Cadastral Survey Plat filed May 24, 1994 as Instrument Number 94-72; Records of the Fairbanks Recording District, Fourth Judicial District, State of Alaska, more particularly described as follows:</p> <p align="center">Commencing at the Closing Corner marked by a 2 ½” aluminum cap on an aluminum pipe stamped E – ES – MS 2008 and being on the south boundary of Section 20, Township 2 North, Range 2 East, Fairbanks Meridian, Alaska and common to the north boundary of Mineral Survey No. 2008;<br/>         Thence N. 00°10’01” W. along the westerly boundary of Tract C-3 as shown on the above mentioned plat a distance of 1454.94 ft. to the <b>True Point of Beginning</b>;<br/>         Thence continuing N. 00°10’01” W. along the westerly boundary of the aforementioned Tract C-3 a distance of 587.65 ft. to an additional Closing Corner of the aforementioned Section 20 marked by a 2 ½” aluminum cap on an aluminum pipe stamped CC;<br/>         Thence N. 00°10’46” W. continuing along the westerly boundary of the aforementioned Tract C-3 a distance of 2950.19 ft. to the east sixteenth corner of Section 17 and Section 20, Township 2 North, Range 2 East, Fairbanks Meridian;<br/>         Thence S. 89°52’32” W. along the northerly boundary of Section 20, Township 2 North, Range 2 East, Fairbanks Meridian a distance of 842.85 ft. to a point;<br/>         Thence S. 03°21’32” W. a distance of 2361.81 ft. to a point;<br/>         Thence S. 40°06’01” E. a distance of 1540.34 ft. to the <b>True Point of Beginning</b>.</p> <p>Containing 62.954 Acres, more or less</p> |

|                                       |  |
|---------------------------------------|--|
| <b>General Geographic Description</b> | Parcel occupies an undisturbed, fairly flat site immediately west of the Fort Knox Mine. It consists of mostly forested palustrine wetlands. |
| <b>Coastal District</b>               | Not applicable   |
| <b>Village Corporation</b>            | None   |
| <b>Regional Corporation</b>           | Doyon  |
| <b>USGS Topo</b>                      | Fairbanks D-1  |
| <b>Title</b>                          | GS 795   |
| <b>Area Plan</b>                      | Not included within Tanana Basin Area Plan   |
| <b>Classification</b>                 | No current classification exists   |
| <b>Mineral Order</b>                  | Open to mineral entry (federal lands)  |
| <b>Access</b>                         | Road access nearby   |
| <b>Value</b>                          | \$21,547.50  |

SURVEYED TOWNSHIP 2 NORTH RANGE 2 EAST OF THE FAIRBANKS MERIDIAN, ALASKA

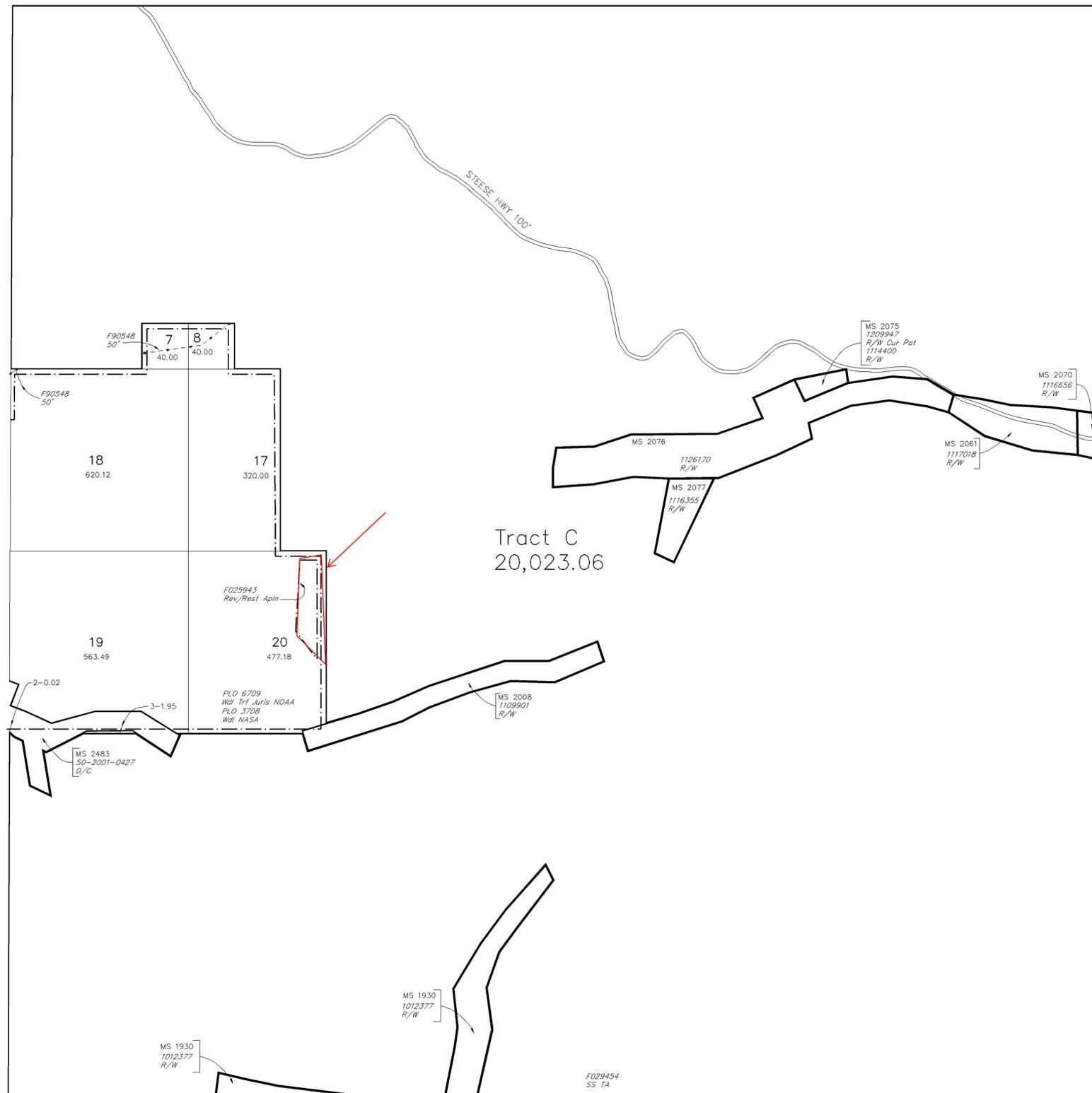
STATUS OF PUBLIC DOMAIN  
LAND AND MINERAL TITLES

MTP

FOR ORDERS EFFECTING DISPOSAL OR USE OF UN-IDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION MINERALS, WATER AND/OR OTHER PUBLIC PURPOSES REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

*PLO 5186 Wdl CI & Public Interest affects Lds/Interests not conveyed*

*F029454 SS Amdt PL 96-487 Sec 906(e) Top Filed*



Tract C  
20,023.06

Lat 64°57'01.61"N  
Long 147°13'59.52"W



WARNING:  
This plot is the Bureau's Record of Title, and should be used only as a graphic display of the township survey data. Records hereon do not reflect title changes which may have been effected by lateral movements of rivers or other bodies of water. Refer to the cadastral surveys for official survey information.

|            |  |
|------------|--|
| CURRENT TO |  |
| 9-18-2007  |  |

Fbx Mer  
T 2 N  
R 2 E

ACAD